

GOVERNMENT CARGO PREFERENCE

HEARING
BEFORE THE
SUBCOMMITTEE ON MERCHANT MARINE
OF THE
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
SECOND SESSION
ON
OVERSIGHT OF GOVERNMENT CARGO PREFERENCE

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GOVERNMENT CARGO PREFERENCE

WEDNESDAY, JUNE 16, 1982

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 235, Russell Senate Office Building, Hon. Slade Gorton (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Terry Spilsbury, staff counsel; and John D. Hardy, minority staff counsel.

OPENING STATEMENT BY SENATOR GORTON

Senator GORTON. This meeting will come to order.

We are engaged here in an oversight hearing on Government cargo preference laws, as a result of a great deal of interest in that subject shown by a number of our colleagues. Senator Dixon is here. Senator Boschwitz is expected here at some time during the course of the hearing, and we will attempt to hear from him when he does arrive.

I must apologize to the witnesses that for a certain period of time beginning at 10 o'clock I must be before the Energy Committee in connection with a markup of a bill on the preservation of the area around Mount St. Helen's.

I do not have any additional formal opening statement other than to say I look forward with great interest to the presentations on this subject, a subject which has always been of great difficulty and of some controversy in the Congress.

Before we hear from our first witness, Senator Dixon, however, I do wish to defer to Senator Inouye for his opening statement.

OPENING STATEMENT BY SENATOR INOUE

Senator INOUE. Thank you very much, Mr. Chairman.

The cargo preference laws of the United States require use of U.S.-flag vessels for 50 to 100 percent of Federal Government-generated ocean shipments.

These laws are intended to promote the development and maintenance of an adequate, well-balanced U.S. merchant marine, to promote U.S. commerce, and to aid in the national defense.

According to a report of the national maritime council, at least 54 other nations have enacted cargo preference laws or other discriminatory practices. In addition, the United Nations code of conduct for liner conferences (UNCTAD code) is soon expected to

become international law. Among the signatory nations it proposes as a standard, a 40-40-20 sharing arrangement for liner cargoes. The United States, of course, is not a signatory of the UNCTAD code.

Besides cargo preference laws and policies to aid their merchant fleets and shipyards, most countries have other forms of direct and indirect subsidies.

The maritime policies of the United States, on the other hand, are undergoing reevaluation with a view toward change. Already we have seen the effective end of subsidy to our shipyards (CDS), and a restriction of our vessel operating subsidy program (ODS).

It seems imperative to me therefore that our remaining programs to develop and maintain our merchant fleet be vigorously administered and followed.

Successive administrations have publicly supported our cargo preference laws, and yet it seems not a year goes by when there is not at least one major instance where these laws have been evaded.

For example, just a few years ago, the Urban Mass Transportation Authority was responsible for the purchase of 400 buses constructed in Germany. Many of these buses were being delivered to the United States aboard Soviet-flag vessels until Congress raised the issue of our cargo preference laws.

Then there was the case of the sale of surplus butter to new Zealand through the commodity credit corporation. The Department of Agriculture disagreed with MarAd, and refused to acknowledge that our cargo preference laws applied.

In response to my question at that time, Admiral Shear said he was "not completely satisfied" with the progress MarAd was making to assure that a "fair distribution of that cargo goes to U.S.-flag vessels".

Most recently, GSA arranged for the purchase of 1.6 million tons of Bauxite from Jamaica. Although our cargo preference laws applied, and two U.S.-flag vessels tendered offers to carry the cargo, both were summarily rejected by GSA because of the unique and questionable delivery requirements imposed by that agency. All of that cargo was carried on foreign bottoms.

The Bauxite transaction seems especially disconcerting because it involved the use of dry-bulk carriers. Although dry bulk cargoes comprise about 40 percent of our foreign trade, less than 2 percent of it moves on U.S. bottoms.

These are just a few examples. There are others we know about. According to a 1978 GAO report, there may be many other instances we do not know about.

The necessary solutions to remedy the perilous state of our shipbuilding capability and our merchant fleet may be very complex. Yet, part of the solution seems quite obvious to me, and it will not "bust the budget." If a substantial portion of our cargo is available to U.S.-flags, ships will be built to carry it, and our merchant fleet will prosper.

Our cargo preference laws, which are now the law of the land, are intended to help us achieve this objective. Every agency of Government should, I believe, strictly adhere to the spirit and letter of those laws.

Thank you, sir.

Senator GORTON. Thank you.

I should also like to announce that Senator Danforth will submit a statement for the record, as will Congresswoman Virginia Smith. [The statements follow:]

OPENING STATEMENT BY SENATOR DANFORTH

I wish to offer for the record some thoughts on our cargo preference requirements and Public Law 480—the Food For Peace Program.

At present, the Merchant Marine Act provides for cargo preference for Public Law 480 food. This means that one-half of the food shipped abroad under Public Law 480 must be shipped in U.S. flag vessels. The practical effect of this requirement is that a portion of Public Law 480 funds must be used to pay the differential between the price of shipment of food on other vessels and the higher cost of the shipment of food on U.S. flag vessels. Therefore, we are subsidizing the differential in cost of shipment, and we are subsidizing that cost out of Public Law 480 funds.

The cost to the Public Law 480 program of the cargo preference requirement has been estimated by the Congressional Budget Office to be \$75 million in 1982. That estimate is said by some to be too low a figure, and an informal estimate by the U.S. Department of Agriculture put it at about \$95 million; others have said about \$100 million. So somewhere in the neighborhood of \$75 million to \$100 million of Public Law 480 funds are now being used to finance the cargo preference requirements.

What can be done with this amount of money? Well, \$75 million to \$100 million, which is now used to pay the increased cost of shipment, could be used instead to buy food. It is estimated that that amount of money, that extra amount of money, could buy between 350,000 and 500,000 more metric tons of food in 1982. Three hundred fifty thousand to five hundred thousand metric tons of food is enough to feed an estimated 6 to 8 million children.

It is worth remembering that every day 40,000 people, some 30,000 of them being children, die of hunger in various parts of the world. It is estimated that every minute, 28 human beings starve to death; that every 3 days, hunger claims as many lives as those lost in Hiroshima; and that each year 40 million people starve to death in the world.

Public Law 480 is the basic program in the United States to buy food, which we have in abundance in America, and to send it abroad. It is the basic program for getting our food into the hands of people who otherwise will die.

The point is made, on behalf of cargo preference, that our American merchant marine fleet is a disaster; that the merchant marine fleet in the United States is in a very bad competitive position with regard to the rest of the world, and that America needs a good, strong merchant marine fleet. I do not debate that point. It may be that the United States has to provide some sort of subsidy, some sort of bailout, for our merchant fleet, and I commend Senator Gorton for his thoughtful efforts in this regard.

But this is a bailout like none other; because this particular provision with respect to Public Law 480 is a bailout of the merchant marine industry—not just from the funds of the taxpayer, but instead, is a bailout of the merchant marine industry with food that otherwise would go to people who are starving.

So it is not the typical kind of subsidy that is involved here. Rather, it is quite directly a transfer of resources from food otherwise destined for people who are dying to the merchant marine industry.

So if we are going to subsidize our merchant marine fleet, let us do so openly and directly. Let us do so by facing up to that fact on its own merits, not by reducing what is otherwise available for Public Law 480.

At a time when starvation is rampant in the world, and when people are dying, we have already cut this program very substantially. We cannot afford to retain the hidden subsidy for the merchant marine in Public Law 480—not when it comes out of the mouths of starving children.

STATEMENT OF HON. VIRGINIA SMITH, U.S. REPRESENTATIVE FROM NEBRASKA

Mr. Chairman and Members of the Committee, thank you for calling this hearing to review current cargo-preference laws, and thank you for this opportunity to testify.

As ranking minority member of the House Appropriations Subcommittee on Agriculture, I am well aware of the effects cargo-preference provisions have on government generated cargoes, in particular, those of the U.S. Department of Agriculture.

The Food For Peace program, Public Law 480, is this country's largest source of food aid to hungry nations. It also serves as a market-development tool for U.S. agriculture products as an economic-development program for poor nations, and as a way to advance American foreign policy objectives.

I am concerned that this most important program is not being used as effectively as it could be because of the amount of resources required to comply with cargo-preference rules.

In 1983, our Appropriations Subcommittee has been requested to provide \$91 million for the added cost of shipping agricultural commodities under Title I of the Public Law 480 program. In 1981, the GAO reported that the differential between U.S.-flagship rates and foreign vessels was \$57.14 per ton and in some cases, the rates were more than \$100 higher.

Title I is the only concessional sales program in operation for agricultural market development. With U.S. agriculture exports expected to be over \$40 billion in 1982, the \$886 million we will spend to maintain and expand markets through special sales is paltry in comparison.

With the farm economy in severe straits, export demand lagging, and unfair competitive pressure from other countries operating huge export subsidy programs—we need every penny we can get for efforts to sell our burdensome supplies.

Under Title II, the entire transportation cost for food donations are borne by the USDA. Although most of the shipments are made on regularly scheduled ships at conference rates, USDA estimates that \$10 million has been paid on extra transportation costs required by cargo-preference shipping under Title II. Also, it is hard to determine, but U.S. subsidies to the maritime industry are bound to put upward pressure on conference rates, thus incurring hidden additional costs for Title II donations.

Although Public Law 480 cargoes only account for 4 percent of total agricultural exports, 7 percent of all wheat and 67 percent of all wheat flour is shipped through this program. As most of you know, wheat prices are drastically below cost of production and any increase in price from expanded export demand would be most welcome. Other commodities we cannot get rid of fast enough—dairy products—are affected by Public Law 480. Sixty percent of our nonfat, dried milk exports come under cargo-preference rules.

Although the U.S. has pumped billions of dollars into the maritime industry through direct and indirect subsidies, we have failed to produce a viable competitive national shipping industry. Some experts would, in fact, argue that these subsidies have contributed to the decline in U.S.-flag fleet efficiency. The GAO reports that not only has the U.S.-flag share of the nonliner vessels' market continued to decrease, but the shift of U.S.-owned, foreign-flag nonliners to the U.S. fleet, anticipated in the 1970 Merchant Marine Act, has not occurred.

In regard to the U.S. citizen-controlled vessels, I think it significant that since the 1970 Act, with a goal of constructing 300 ships including dry bulk carriers, 10 new U.S. flag dry-bulkers have been constructed. While at the same time, U.S. controlled ships under foreign flags, increased by 45 vessels.

In my opinion, U.S. merchant marine policy should be reformulated so as to provide a more competitive, efficient, and up-to-date U.S. shipping base.

The idea of building and maintaining a merchant fleet through direct subsidies for construction and operation, and then guaranteeing business through the indirect subsidy of cargo preference, has failed miserably.

I know the Department of Transportation is working on a comprehensive reform of merchant-marine policy. However, regardless of what comes from this study, I submit that agricultural products should be exempt from all cargo-preference rules now in place or being considered.

The percentage of agricultural cargo shipped under preference is too small to be of strategic importance and has not stimulated dry bulk vessel construction. However, this same cargo, and the increased exports that would result from agricultural exemption, would be very significant to the depressed agricultural sector.

Mr. Chairman, this completes my remarks.

Senator GORTON. And with that, Senator Dixon, we are delighted to have the Senator from my own original home State here and we welcome you.

STATEMENT OF HON. ALAN J. DIXON, U.S. SENATOR FROM ILLINOIS

Senator DIXON. Thank you, Mr. Chairman, Senator Inouye.

I would first ask leave of the committee to insert in the record my complete statement.

Senator GORTON. Without objection, so ordered.

Senator DIXON. Mr. Chairman, I appreciate the opportunity to testify before your subcommittee's oversight hearings on this Nation's cargo preference laws. I think most people would agree that there are some legitimate questions that can be raised over the program's implementation.

I wish to make it clear at the outset that I have no objection to the principle of our cargo preference programs, but I do believe that the program needs improvement from both an efficiency and an accountability perspective. It is for this reason that I introduced S. 2511 which is now before your subcommittee.

The present cargo preference laws are administered in a fashion that fails to insure the lowest obtainable cost to the Government. Depending on the particular program, the cargo preference laws require that 50 percent or more of the export cargo being financed by the Government be shipped on U.S.-flag vessels. This provides an important subsidy to the U.S. merchant marine by assuring a major source of cargo to a fleet that is generally not economically competitive.

But, Mr. Chairman, I submit to this committee the following proposition: If we are going to accept and continue this kind of program, the law should require the administering agencies to obligate the Federal Government to finance the lowest transportation costs available.

A number of problems plague the existing cargo preference system. First, there is no requirement that preference cargo shipped on U.S. vessels be shipped on the least expensive U.S. ship.

Second, there is no requirement or assurance that the program support a modern, efficient U.S. fleet. The tragic loss of the *Poet* in 1980 reminds us of the type of rust buckets Public Law 480 can keep in service.

Third, the program's implementation can result in the diversion of cargo at great cost to the Government.

Fourth, some agencies do not even consider ocean transportation costs and have not established a competitive bidding system to insure lowest costs.

Mr. Chairman, I believe that S. 2511 and the principles it seeks to implement would help remedy many of these problems while still maintaining the principle of cargo preference. Very simply, S. 2511 requires that preference cargo be shipped in those U.S.-flag vessels and foreign vessels that offer to deliver the cargo at the lowest landed cost.

This bill would thereby restore some marketplace forces to these programs and ensure the taxpayers that the Government is not supporting more costly transportation than is available.

One of the elements of S. 2511 on which I have received several favorable comments is the encouragement of cargo consolidation when that would be appropriate and would promote lower shipping costs. I understand that there may be diverse views on how this might be implemented, but I believe the principle is sound. If pooling a number of small shipments together can produce an economical incentive for service where adequate service is now missing or

can result in lower costs to the Government without inconveniencing the shipper, such consolidation in my view is desirable and important.

The precise application to specific cases can be best addressed, I believe, by granting the shipping agencies and shipping experts wide latitude to develop criteria through the rulemaking process.

In conclusion, Mr. Chairman, I hope you will give serious consideration to S. 2511 and its underlying objectives and that it will help you focus on establishing a single, Government-wide policy to insure a more efficient, cost effective and accountable cargo preference system.

I thank you very much, Mr. Chairman and Senator Inouye, for permitting me to appear before your subcommittee this morning.

Senator GORTON. Senator, I think that you make a very good case in connection with the artificial way in which some aspects of the present law operates, and of course the idea that there should be additional competition is one which we all share, with perhaps differences on how we create it.

We have on the floor now a MarAd authorization bill which will allow foreign-built vessels to reflag in the United States and become immediately eligible to carry preference cargo. Have you considered that proposal at all? Do you think that would have a significant impact on increasing competition for this kind of cargo and thus driving down prices?

Senator DIXON. I think it could, Mr. Chairman. Of course, many of us in the Midwest and the Great Lakes States are very concerned about the terrible drought in shipping on the Great Lakes and in the St. Lawrence Seaway.

We feel that we can present documented evidence of a variety of cases in which cargo through Government programs has been shipped on more expensive vessels from time to time over the last several years. I would refer you to my complete statement in answer to your question Mr. Chairman.

Senator GORTON. Do you have any questions Senator Inouye?

Senator INOUE. Yes.

I gather that your measure would also permit those controlled carriers, carriers owned by the Soviet Union for example, to bid on Government-generated cargo?

Senator DIXON. Only if there is no vessel available, then the lowest landed cost on a competitive basis, if there is no American vessel available, would be decisive in connection with the competition among foreign flag ships.

Senator INOUE. But if an American vessel is available, all foreign ships are excluded?

Senator DIXON. That is right. The competition would be on the basis of the lowest landed cost between American vessels, but in the absence of that the lowest landed cost among foreign flag ships.

Senator INOUE. So under your bill the 50-50 requirement will not apply?

Senator DIXON. The 50-50 would continue to apply under my legislation, yes.

Senator INOUE. Thank you very much.

Senator GORTON. Let me follow up on that. You have just stated, and I think your bill reflects, that you do not challenge the objec-

tive of reserving 50 percent of all Government-impelled cargoes for U.S. vessels?

Senator DIXON. Oh, no.

Senator GORTON. If the committee believed that a bill were necessary to address the problems you've identified and spoken to here and incorporated the concept of S. 2511 as one element in that bill, would you then support the proposal if it included more authority to the Maritime Administration to insure full compliance by Federal agencies with the 50 percent requirement?

Senator DIXON. I think so. But I would like to review that, Mr. Chairman.

[The statement follows:]

STATEMENT OF HON. ALAN J. DIXON, U.S. SENATOR FROM ILLINOIS

Mr. Chairman, I appreciate the opportunity to testify before your Subcommittee's Oversight Hearings on this Nation's cargo preference laws. As you well know the costs and the implementation of cargo preference requirements have been a controversial matter—particularly as our scrutiny of the Federal budget has become more exacting. I think most people would agree that there are some legitimate questions that can be raised over the program's implementation. I wish to make clear at the outset, that I have no objection to the principle of our cargo preference programs. But I do believe that the program needs improvement from both an efficiency and an accountability perspective. It is for that reason that I introduced S. 2511 which is now before your subcommittee.

The present cargo preference laws are administered in a fashion that fails to insure the lowest obtainable cost to the Government. Depending on the particular program, the cargo preference laws require that 50 percent or more of the export cargo being financed by the Government be shipped on U.S.-flag vessels. This provides an important subsidy to the U.S. Merchant Marine by assuring a major source of cargo to a fleet that is generally not economically competitive.

But, Mr. Chairman, I submit to this committee the following proposition: If we are going to accept and continue this kind of program, the law should require the administering agencies to obligate the Federal Government to finance the lowest transportation costs available. This is the principle behind my proposal to require preference cargo to be shipped at the lowest landed cost. It seems to me that a fundamental principle of any economically sound operation is its intent to achieve its objective at the lowest cost. That is certainly the expectation of the American taxpayer. Furthermore, the savings that result from minimizing such transportation costs can then be used by the administering agency to promote additional American exports. While some agencies appear to run their programs with this principle in mind, it is certainly not a uniform Federal practice.

A number of problems plague the existing cargo preference system. First, there is no requirement that preference cargo shipped on U.S. vessels be shipped on the least expensive U.S. ship, for example, only two weeks ago a Public Law 480 shipment of soybean oil to Pakistan was given to the high-bidding U.S. flag vessel, the *Perryville*. The additional cost to Department of Agriculture was \$311,000 more in ocean freight costs than what was offered by another U.S. vessel. This figure was what U.S. taxpayers paid—not to insure cargo for our merchant marine, but to support a 40-year-old tramp vessel. Another example may be found in a recent Congressional Research Service study: "on the first title II shipment that it booked to West Africa this year, the Department of Agriculture decided to use a U.S.-flag vessel at a rate of \$132 per ton rather than accepting a bid from other vessels, both U.S. and foreign flag, whose rates ranged from \$59 to \$142 per ton: Thus, up to as much as an additional \$600,000 was spent to move 10,000 tons of donated commodities."

Second, there is no requirement or assurance that the program support a modern, efficient U.S. fleet. The tragic loss of the *Poet* in 1980 reminded us of the type of "rustbuckets" Public Law 480 can keep in service. Cargo preference has been used to finance the sailings of vessels to foreign ports where they are then scrapped or sold foreign—hardly a good use of Federal money. Just last year for example, the *Angelina* was scrapped in Asia after carrying Public Law 480 cargo to Pakistan.

Third, the program's implementation can result in the diversion of cargo at great cost to the Government. For example, an ore pelletizing manufacturing plant ready to be shipped by Allis-Chalmers Corp. out of Milwaukee to Hong Kong on a waiting

vessel was required to be disassembled, shipped by barge and rail to the gulf, and then shipped out of the gulf at an additional cost of \$500,000 and with substantial resulting delay and damages to the equipment.

Fourth, some agencies do not even consider ocean transportation cost and have not established a competitive bidding system to insure lowest costs. The Military Sealift Command by using a competitive bid system is able to obtain lower shipping costs, frequently lower than established conference rates (which may well be artificially inflated to reflect the captive cargo preference market). The Department of Agriculture's title I program, while not always insuring lowest landed cost, at least enables one to see what costs are and encourages competitive bidding.

Finally, your subcommittee may want to inquire whether the ODS program contributes to some of the cost distortions. For example, I have heard a number of complaints that ODS payments are being used, not for ocean freight differential, but to pay higher rates to railroads and thereby divert cargoes from the Great Lakes to other port ranges. These complaints were given credence in the recent CRS study I mentioned earlier. Similarly, if an ODS operator is given a preference cargo shipment, is his differential payment calculated on the basis of the difference between foreign competition's costs and his costs or the costs of the lowest bidding U.S.-flag ship?

Mr. Chairman, I believe that S. 2511 and the principles it seeks to implement would help remedy many of these problems while still maintaining the principle of cargo preference. Very simply, S. 2511 requires that preference cargo be shipped in those U.S.-flag vessels that offer to deliver the cargo at the lowest landed cost. Any remaining cargo shipped in foreign vessels must similarly be shipped in those vessels that will deliver cargo at lowest landed cost. This bill would thereby restore some marketplace forces to these programs and insure the taxpayers that the Government isn't supporting more costly transportation than is available.

For example, S. 2511 would prevent the first problem I mentioned—the ability under present law to ship preference cargo on the more expensive, available U.S. ship offering to carry the cargo. S. 2511, by mandating lowest cost transportation from the cargo's point of production to the foreign destination, would also reflect the true transportation costs to the Government and could help minimize costly cargo diversions. Finally, S. 2511 would require preference shipments to be arranged in the open—thereby giving all carriers the opportunity to make their best, competitive offers. I have been told that the shipment of foreign military sales, for example, is paid for out of the American financing given to the foreign nation. While MARAD monitors the 50 percent of U.S.-flag share, it is very likely that such shipments will be set up by a particular freight forwarder and an individual carrier with no opportunity for other carriers to bid, or for the Federal Government to know whether its funds are being spent on more expensive transportation than is available.

One of the elements of S. 2511 on which I have received several comments is the encouragement of cargo consolidation when that would be appropriate and would promote lower shipping costs. I understand that there may be diverse views on how this might be implemented. But I believe the principle is sound—if pooling a number of small shipments together can produce an economical incentive for service where adequate service is now missing or can result in lower costs to the Government without inconveniencing the shipper, such consolidation is desirable and important. The precise application to specific cases can be best addressed, I believe, by granting the shipping agencies and shipping experts wide latitude to develop criteria through the rulemaking process.

In conclusion, Mr. Chairman, I hope you will give serious consideration to S. 2511 and its underlying objectives and that it will help you focus on establishing a single, government-wide policy to insure a more efficient, cost-effective and accountable cargo preference system.

Senator GORTON. Senator, thank you very much.

Senator DIXON. Thank you for your time, Mr. Chairman.

Senator GORTON. Since Senator Boschwitz is not here, his statement will be included in the record at this point.

[The statement follows:]

STATEMENT OF HON. RUDY BOSCHWITZ, U.S. SENATOR FROM MINNESOTA

Mr. Chairman, I appreciate the opportunity to appear before the Subcommittee on the Merchant Marine to discuss the effects of cargo preference on agricultural

exports. As you know, I chair the Agriculture Committee's Subcommittee on Foreign Agricultural Policy.

Last July 10 we held a hearing on the cargo preference requirement of Public Law 480. One of the main vehicles for promoting our foreign agricultural interests is the Public Law 480 program. As you know, this law was passed in 1954 with two main purposes: (1) to help relieve burdensome grain surpluses which were piling up in CCC (Commodity Credit Corporation) warehouses; and (2) to provide humanitarian relief to needy countries. At the risk of oversimplifying, Public Law 480 has two major approaches for achieving its goals: (1) the Title I program provides concessional financing for sales of bulk commodities. These loans are for periods of up to 50 years with interest rates of two percent during an initial 2 to 10 year grace period and 3 percent for the remainder of the contract. (2) Title II provides for outright donation of commodities to alleviate famine and to encourage economic development. Commodities are purchased by USDA and donated under government-to-government agreements, through the UN World Food Program and non-profit private voluntary organizations. That hearing convinced me that the Congress needs to make drastic changes in cargo preference as it applies to agricultural shipments.

By far the most desirable and effective solution to the cargo preference problem would be to eliminate it entirely for Public Law 480 and USAID agricultural shipments. My track record on the issue is clear. I have consistently supported efforts to increase agricultural exports and have opposed those which impede exports. There is no doubt that agricultural exports would benefit by eliminating cargo preference.

I ask that four items be added to the record.

The first is a copy of my floor statement made in support of Senator Danforth's effort to eliminate cargo preference from Public Law 480 last October.

Second, a list of vessels currently carrying Public Law 480 Title I cargoes, along with a summary of the costs of the ocean freight differential.

Next, a letter to Admiral Shear, Maritime Administrator and William Schmiesser, Director of USAID from one of my good Minnesota constituents, Cargill, Inc. The letter describes how Cargill and Bunge lost 70,000 of corn sales to Egypt because of the outrageously high ocean freight differential that was approved by the Maritime Administration (MarAd). This rate was \$82 per metric ton (about \$2.08/bushel) more than the foreign flag rate.

The last item is a report done by A. Ellen Terpstra, an Agricultural Policy Analyst for the Congressional Research Service. It concisely examines the difficulties that cargo preference causes for the Public Law 480 program.

I would like to touch on several major points. The costs of cargo preference to Public Law 480 Title I are very large and are increasing astronomically. In 1975 it costs \$21.3 million. Last year it cost \$89.6 million; an increase of 420 percent in only 6 years. Should such increases continue unrestrained?

Cargo preference is a subsidy to the maritime industry which is hidden in the USDA budget. This irresponsible arrangement contributes to bureaucratic unaccountability. Costs are out of control because no one really has charge of the overall program. If cargo preference should be supported, let the funding for this program come from MarAd, out in the daylight for all of Congress and the American people to see. Of course, that will never happen because there is no justification for continuing the program. As soon as it appeared as a separate line item in the budget, Congress would end the program.

I really doubt whether many of the U.S. flag rates accepted by MarAd are actually "fair and reasonable" as the law requires. The average ocean freight differential—that is, the amount USDA has had to pay to make up the difference between the going world rate and the U.S. rate—has increased from \$10.59 per metric ton in 1975 to \$58.46 in 1981. This is more than an 550 percent increase in only 6 years. What other sector of the U.S. economy has been subsidized to the point that it is that far out of line with the rest of the world?

It is interesting to note that the USDA currently would have to pay only about \$2.75 per bushel of corn at export locations and then turn around and spend another \$1.48 per bushel just to pay the cargo preference. It is hard for me to explain to farmers in Minnesota how, on the average, over half the value of the corn itself has to be spent on the ocean freight differential. They tell me—and properly so—that the money would be much better used by purchasing 50 percent more corn and shipping it on a foreign flag vessel.

It is useful to remember that the Public Law 480 cargo preference requirement benefits only the 8 companies which charter bulk vessels to carry Title I commodities. The total number of vessels generally offered to carry these cargoes is less than 25. Assuming the amount of this year's price tax for cargo preference will be

around \$100 million, that means the American taxpayers will spend \$4 million to keep each of those 25 ships in the water.

Some people argue that many jobs could be lost if cargo preference is ended. This is not true. Even if the entire Public Law 480 bulk fleet was retired (which we don't expect), the impact would be limited. If each of the 25 vessels has a crew of 40, there would be a total of 1,000 jobs that could be lost. Keep in mind, though, that the average cargo preference subsidy for each of those jobs would be \$100,000. (\$100 million divided by 1,000 jobs = \$100,000 per job.)

Detailed economic analysis by USDA, on the other hand, demonstrates clearly that every additional \$100 million of agricultural exports generates 2,440 jobs. Sixty percent of them (1,460) are non-farm jobs and the other 40 percent (980) are farm jobs. So if we eliminated cargo preference on Public Law 480 and used that money to ship additional commodities, far more jobs would be created than would be lost.

Still another interesting fact is that only 3 of the ships were built in the 1970's. The others are quite old. All but two of the remaining ships were built in the 1940's. Most of those are not efficient compared to more modern craft. Many are not really designed to handle bulk grain cargoes.

Although some people claim that keeping these ships in service helps to maintain a strong military posture, this is clearly not the case. We found no evidence in our hearing that they add anything to our country's military security. They may well have done so during WWII, but now most of them are simply too old, too small, and too unreliable to be of any significant military benefit in a time of national crisis.

It has been argued that shipping American grain in American ships helps build goodwill with the recipient countries. Unfortunately, the opposite is true in some situations. For example, Sri Lanka has tendered for wheat through Public Law 480 under protest. Sri Lanka has a modern high speed pneumatic unloading system that works efficiently only with large bulk carriers. Having to unload vessels with small awkwardly located compartments not only slows the whole operation and increases costs, but greatly increases the potential for damaging the equipment. As that country develops and becomes more of a commercial grain customer and less of a Public Law 480 customer, will they turn to the U.S. to meet their needs? This negative experience for Sri Lanka results directly from the cargo preference requirement.

Last October I heard of a ship that was scrapped in Singapore after carrying a cargo of soybean oil to Pakistan and Bangladesh. The owner of the ship received more in cargo preference payments than it cost to move the ship from the U.S. to South Asia to Singapore. At that time I understood that a court case would be initiated against the ship's owner for misuse of the cargo preference monies. I am glad that Admiral Shear is here today. Hopefully he can tell us what has happened in this particular case and what MarAd has done to prevent this from happening in the future.

A final point: I agree with Senator Dixon that cargo preference requirements tend to discriminate against the Great Lakes. The best way to end that inequity is to end the program.

Mr. Chairman, in conclusion I will simply state that the cargo preference law has now been with us for 28 years. It has clearly failed to meet its objectives of providing a strong and healthy U.S. flag merchant marine. The Administration is currently reviewing its overall maritime policy. I sincerely hope that one of their ultimate recommendations will be the elimination of this unsuccessful program. If they make that decision, I stand ready to support them in their plans to strengthen the U.S. flag fleet.

U.S.-FLAG VESSELS GENERALLY AVAILABLE FOR PUBLIC LAW 480, TITLE I CARGOES; DOES NOT INCLUDE LINER VESSELS OR TUG-BARGE VESSELS

DRY BULK VESSELS

Merrimac	1944	Kopaa	1944
Sugar Islander	1943	Penny	1943
Flora	1948	Point Susan	1945
Potomac	1945	Inger	1945
Marine Electric	1944	Tamara Guilden	1961
Traveller	1945	Overseas Harriet	1978
		Overseas Marylyn	1978

TANKER VESSELS

Cove Explorer	1945	Louisiana Getty	1944
Wilmington City	1944	Banner	1956
Little Apex	1944	Bordeaux	1945

DRY BULK VESSELS—Continued

Point Margo.....	1945	Ogden Yukon.....	1973
Point Julie.....	1944	Mona.....	1944
Point Milton.....	1943		

Note: There are numerous other U.S. flag tanker vessels. The above vessels are generally offered on Title I cargoes.

Source: FAS, USDA.

PUBLIC LAW, TITLE I

Fiscal year	U.S.-flag metric tons	Percent	Ocean freight differential	
			Cost	Per metric ton
1975.....	1,974,000	52.2	\$21,329,000	\$10.59
1976.....	1,653,000	50.2	41,983,000	25.00
Transitional quarter.....	874,000	50.2	16,811,000	18.93
1977.....	2,202,000	46.2	75,451,000	34.26
1978.....	1,968,507	46.4	62,615,000	31.80
1979.....	2,200,874	48.6	75,526,000	32.83
1980.....	1,711,055	41.6	62,990,000	36.18
1981.....	1,541,275	42.3	89,600,000	58.46

Senator GORTON. In the interest of time, because we have a large number of witnesses here today, we will treat the three administration witnesses in a panel and ask Admiral Shear, Mr. Vaughan and Mr. Smith to come up together. We will ask all of the witnesses to summarize their statements as the entire statement will be included in the record as if read.

Admiral Shear, you may proceed.

STATEMENTS OF ADM. HAROLD E. SHEAR, MARITIME ADMINISTRATOR, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY STUART R. BREIDBART, CHIEF COUNSEL, AND LEWIS C. PAINE, JR., ACTING ASSOCIATE ADMINISTRATOR FOR MARKETING AND DOMESTIC ENTERPRISE; WILLIAM A. VAUGHAN, ASSISTANT SECRETARY, ENVIRONMENTAL PROTECTION, SAFETY, AND EMERGENCY PREPAREDNESS, DEPARTMENT OF ENERGY, ACCOMPANIED BY FRED BAMBERGER, OFFICE OF GENERAL COUNSEL, AND RICHARD FURIGA, DEPUTY ASSISTANT SECRETARY OF ENERGY FOR THE STRATEGIC PETROLEUM RESERVE; AND RICHARD A. SMITH, ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE, DEPARTMENT OF AGRICULTURE

Admiral SHEAR. Mr. Chairman, I have two members of my staff here this morning, Mr. Stuart Breidbart and Mr. Lewis Paine, who are with me at this time.

I would like to read a short summary statement and provide my complete statement for the record if I may, sir.

Senator GORTON. Thank you. We would be delighted.

Admiral SHEAR. Mr. Chairman, members of the committee:

My name is Harold Shear. I am the Maritime Administrator of the Department of Transportation. I am very pleased to appear before the subcommittee with respect to your oversight hearings on the implementation of the Cargo Preference Act of 1954.

The Cargo Preference Act of 1954 requires that at least 50 percent of Government-generated cargo be shipped on U.S.-flag vessels

to the extent such are available at fair rates. The Cargo Preference Act of 1954 is commonly referred to as Public Law 664.

Public Law 664 also provides the authority of the Department of Transportation to oversee the administration of this act. The regulations issued by the Maritime Administration governing the administration of Public Law 664 by other Federal agencies are found in the Code of Federal Regulations.

To insure that the public law and these regulations are properly implemented, the Maritime Administration closely monitors the shipping activities of more than 60 Federal agencies and Departments. Mr. Chairman, the major programs covered under Public Law 664 are Public Law 480 programs, the Agency for International Development loan and grant programs, and the strategic petroleum reserve program.

Public Law 480, which is the popular name for the Agricultural Trade and Development Act of 1954, as amended, provides for the disposal of surplus agricultural commodities through domestic and export sales, transfers to other Government agencies, and donations for domestic and foreign welfare use. Public Law 480 is administered in part by the Secretary of Agriculture and the Secretary of State and the Agency for International Development.

Title I of Public Law 480 provides for U.S. Government financing of sales of U.S. agricultural commodities to friendly countries. As these title I sales are financed by the U.S. Government, Public Law 664 requires that at least 50 percent of the gross tonnage of such commodities must be shipped on privately owned U.S.-flag commercial vessels to the extent such vessels are available at fair and reasonable rates.

In this regard, the Maritime Administration works with the Department of Agriculture to assure that Public Law 664 is efficiently implemented. During calendar year 1980, the latest year for which complete figures are available, 3.5 million metric tons were shipped under the title I program. Of this, U.S.-flag merchant vessels transported about 1.5 million metric tons, or about 41 percent of the total amount.

Title II of Public Law 480 authorizes the donation of agricultural commodities to foreign governments, international relief agencies, or other intergovernmental organizations. The Maritime Administration works closely with these Departments to insure that the cargo preference requirements of the law are implemented with vigor.

During calendar year 1980, also the last year for which complete figures are available, 1.6 million metric tons were shipped under the title II program. Of this, U.S.-flag merchant vessels transported about 54 percent of the total amount.

Another program of major significance is the Agency for International Development's loan and grant program, authorized by the Foreign Assistance Act of 1961. Pursuant to this program, loans and grants of Federal funds are made to friendly foreign governments for procurement of agricultural and other products. Both the procurement and shipping responsibilities for these cargoes are vested in the recipient country. During calendar year 1980, 1.4 million metric tons were shipped, of which U.S.-flag vessels carried 48 percent or some 700,000 metric tons.

Another major program that generates cargo subject to Public Law 664 is the strategic petroleum reserve. The strategic petroleum reserve is currently being filled with crude oil. As this petroleum is purchased by the United States for its own account, the 50 percent preference requirement of Public Law 664 also applies.

Mr. Chairman, it would be difficult to exaggerate the importance of Government cargo preference to U.S.-flag operators. In 1980, the last year for which data was available, the seven U.S.-flag subsidized liner operators received an average of over 16 percent of their total revenue from Government-impelled cargoes. For some carriers these cargoes represent the difference between operating and going out of business.

Individual companies' reliance on the program ranges up to 34 percent of the total revenues. The financial data on unsubsidized companies is not readily available, but they too rely heavily on such carriage. Most dependent of all on preference cargoes are the U.S. dry bulk operators.

Government-impelled cargoes provide a reliable base of operations for the U.S.-flag commercial fleet. The cargoes are generally consistent and constant and not subject to the peaks and valleys of the commercial market sector. As a result, when commercial cargoes are in short supply, preference cargoes become even more important in maintaining our merchant fleet.

As you know, Mr. Chairman, Public Law 664 directs that it shall be implemented "in such manner as will insure a fair and reasonable participation of U.S.-flag commercial vessels in such cargoes by geographic areas." In January 1981, the Maritime Administration published a proposed rule in the Federal Register to implement this phrase "by geographical areas" by prescribing the geographical allocations of preference cargoes among the ports in the four coastal areas of the United States, with the proviso that no one range would receive less than 10 percent of such cargo.

On the basis of comments received concerning the proposed rule and our review of this situation in July 1981, the Maritime Administration concluded that implementation of the rule as such would require the affected Federal agencies to take steps which would go substantially beyond what would be considered necessary and practical under the law. However, based on these comments we concluded that there is sufficient basis for the agency to initiate discussions with the relevant Federal agencies in an effort to encourage an equitable distribution of preference cargo, and we have undertaken to do so.

We have also been asked to comment on Senator Dixon's bill, S. 2511. The bill would amend the Merchant Marine Act of 1936 to provide that Government-generated cargoes transported on U.S.-flag or foreign-flag vessels shall be shipped at lowest landed cost. Lowest landed cost refers to the cost of transportation from the point of production to the port of entry abroad. The consolidation of cargoes and the use of competitive bidding to ensure lowest landed costs would be encouraged.

Our examination of the proposal would indicate that it would not reduce in any meaningful way the transportation costs of the cargoes subject to Public Law 664. Indeed, we have reason to believe that the stringent administrative requirements mandated by the

bill would actually increase the overall cost of such programs. Additionally, as we read the bill it would place an administrative burden on the private sector that might not be found acceptable.

Mr. Chairman, I would like to conclude my statement with the observation that I am very much aware of two matters which are of particular concern to your committee. One of these is the access of Great Lakes and carriers to their equitable share of preference cargoes. As I stated above, I am doing all possible to urge and assist the concerned Government agencies to assure that their cargo is routed through the Great Lakes ports in keeping with the lowest landed cost practice.

The second of these concerns is the reduction of the cost to the Government of cargo preference. This cost is largely concentrated under title I programs involving full cargo shipments by bulk vessels. I want to assure you that we are equally concerned and are giving careful attention to reduction of these costs. We already have a number of recently constructed energy conserving bulk carriers who are achieving lower rates on the cargoes they carry than do most of the older vessels which have been the base of our dry bulk fleet.

It is intended that the President's new maritime program will attract more of these modern economical bulk carriers. This, together with the cooperation of the labor organizations, which are already achieving more efficient manning scales, should result in decreased costs to the Government by providing this bulk transportation capability.

I thank you and I would be glad to answer any questions you may have.

[The statement follows:]

STATEMENT OF ADM. HAROLD E. SHEAR, MARITIME ADMINISTRATOR, DEPARTMENT OF TRANSPORTATION

Mr. Chairman and members of the subcommittee, my name is Harold E. Shear, and I am the Maritime Administrator of the Department of Transportation. I am very pleased to appear before the Subcommittee with respect to your oversight hearings on the implementation of the Cargo Preference Act of 1954.

There are three Federal laws relating to cargo preference in general use today.

The first is the Cargo Preference Act of 1904 (10 U.S.C. 2631). Very briefly, this Act requires that military cargoes be shipped on vessels of the United States or belonging to the United States. The 1904 Act does not mandate the use of privately-owned, United States-flag commercial vessels. However, the Cargo Preference Act of 1954 requires that 50 percent of such military cargoes be shipped on privately-owned, United States-flag commercial vessels.

The second statute regarding cargo preference is Public Resolution 17 (15 U.S.C. 616a). This Act provides that it is the "sense of Congress" that in any loans made by a Government agency to foster the export of agricultural or other products, provision shall be made that such products shall be carried exclusively in vessels of the United States. The Maritime Administration of the Department of Transportation administers Public Resolution 17 and, in appropriate cases, grants "waivers" to permit 50 percent of the cargoes to be shipped on vessels of the recipient country.

The third cargo preference law—and the subject of these hearings—is the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)), which requires that at least 50 percent of Government generated cargoes be shipped on privately owned United States-flag commercial vessels to the extent such vessels are available at fair and reasonable rates. The Cargo Preference Act of 1954 is commonly referred to as Public Law 664.

Public Law 664 applies to all government agencies when shipping on ocean vessels "equipment, materials, or commodities" that have been procured by the United States for its own account, furnished by the United States for the account of a foreign nation, or for which the United States advances funds or credits or guarantees

the convertability of foreign currencies. The movement of such cargoes must result from or be generated by some action of the United States government, without which the movement would not take place. The cargo preference requirements of Public Law 664 do not apply to purely commercial cargoes moving in our foreign commerce.

Public Law 664 also provides the authority of the Department of Transportation to oversee the administration of such cargo preference Act. In this regard, the statute states as follows: "Every department or agency having responsibility under this subsection shall administer its programs with respect to this subsection under regulations issued by the Secretary of Transportation. The Secretary of Transportation shall review such administration and shall annually report to the Congress with respect thereto."

The regulations issued by the Maritime Administration governing the administration of Public Law 664 by the Federal agencies are found in the Code of Federal Regulations, Title 46, Sections 381.1 thru 381.7. These regulations require that all bid invitations, contracts, grants, loans, guarantees, tenders, of whatever public notice is utilized, contain a U.S.-flag shipping requirement and bill of lading reporting provision. Specific guidance concerning full cargo or charter movements affecting U.S.-flag vessels, is found in section 381.5.

To ensure that Public Law 664 and these regulations are properly implemented, the Maritime Administration closely monitors the shipping activities of more than 60 Federal agencies and departments. Additionally, we have an ongoing program of planned visits and consultations with the sponsoring Federal agencies, commercial shippers, freight forwarders and steamship representatives, to assist them in securing the appropriate U.S.-flag service. We also help these parties to develop suitable procedures to ensure that U.S.-flag carriers are provided a fair opportunity to carry Public Law 664 cargoes.

Mr. CHAIRMAN. The major programs covered under Public Law 664 are the Public Law 480 program, the agency for International Development's Loans and Grants program, and the Strategic Petroleum Reserve.

Public Law 480, which is the popular name for the Agricultural Trade and Development and Assistance Act of 1954, as amended, provides for the disposal of surplus agricultural commodities through domestic and export sales, transfers to other Government agencies, and donations for domestic and foreign welfare use. Public Law 480 is administered in part by the Secretary of Agriculture and the Commodity Credit Corporation, and in part by the Secretary of State and the Agency for International Development.

Title I of Public Law 480 provides for U.S. Government financing of sales of U.S. agricultural commodities to friendly countries. Sales are made by private businessmen, usually on a bid basis in response to tenders (invitations for bids) issued by the importing country. Arrangements for the ocean transportation of commodities brought under Title I is made either directly by officials of the importing government or by their appointed agents. However, the pertinent terms of all proposed charters or liner bookings are reviewed by the Department of Agriculture. As these Title I sales are financed by the U.S. Government, Public Law 664 requires that at least 50 percent of the gross tonnage of such commodities must be shipped on privately owned U.S.-flag commercial vessels to the extent such vessels are available at fair and reasonable rates. In this regard, the Maritime Administration works with the Department of Agriculture to ensure that Public Law 664 is efficiently implemented. During calendar year 1980, the latest year for which figures are available, 3.5 million metric tons were shipped under the Title I Program. Of this, U.S.-flag merchant vessels transported about 1.5 million metric tons, or about 41 percent of the total amount.

Title II of Public Law 480 authorizes the donations of agricultural commodities to foreign governments, voluntary relief agencies or intergovernmental organizations. It is administered by the Agency for International Development in the Department of State and the Department of Agriculture. The Maritime Administration works closely with these Departments to ensure that the cargo preference requirements of Public Law 664 are implemented with vigor. During calendar year 1980, the last year for which figures are available, 1.6 million metric tons were shipped under the Title II Program. Of this, U.S.-flag merchant vessels transported about 861,000 metric tons, or about 54 percent of the total amount.

Another program of major significance is the Agency for International Development's Loans and Grants program, authorized by the Foreign Assistance Act of 1961, as amended. Pursuant to this program, loans and grants of Federal funds are made to friendly foreign governments for the procurement of agricultural and other products. Both the procurement and shipping responsibilities for these cargoes are

vested in the recipient country. During calendar year 1980, 1.4 million metric tons were shipped, of which U.S.-flag vessels carried 48 percent, or 689,000 metric tons.

Another major program that currently generates government cargoes subject to Public Law 664 is the Strategic Petroleum Reserve. Pursuant to the authority set forth in section 154 of Public Law 94-163, and subsequent acts, the Strategic Petroleum Reserve is currently being filled with crude oil. As this petroleum is purchased by the United States for its own account, the 50 percent cargo preference requirement of Public Law 664 applies.

The Department of Energy, and the Office of Environmental Protection, Safety and Emergency Preparedness within the Department, is responsible for administering the SPR Program.

Subject to the approval of DOE, both the oil purchased and the ocean transportation of such oil is arranged by agencies of the Department of Defense (DOD), as agents for DOE. The purchase of oil for the SPR is performed by the Defense Fuel Supply Center (DFSC). Another agency of the DOD, the Military Sealift Command (MSC) charters vessels as required. The DOE provides the Maritime Administration with reports as to the total amount of oil purchased for the SPR, and the amount of such oil imported into the United States on U.S.-flag and foreign-flag vessels. In this regard, the Maritime Administration and the Department of Energy have agreed that the accounting for the transportation of such oil shall be performed on a ton-mile basis. We believe this approach is more in keeping with the rationale of Public Law 664.

Mr. Chairman, it would be difficult to exaggerate the importance of government cargo preference to U.S.-flag operators. In 1980, the last year for which data are available, the seven U.S.-flag subsidized liner operators received an average of over 16 percent of their total revenues from government-impelled cargoes. For some carriers these cargoes represent the difference between operating and going out of business. Individual companies' reliance on the program ranges up to 34 percent of total revenues. Financial data on unsubsidized companies is not readily available, but they, too, rely heavily on such carriage. Most dependent of all on preference cargoes are the U.S. dry bulk operators. These operators simply would not survive without preference cargoes.

Government-impelled cargoes provide a reliable base of operations for the U.S.-flag commercial fleet. The cargoes are generally consistent and constant and not subject to the cyclical peaks and valleys of the commercial market sector. As a result, when commercial cargoes are in short supply, preference cargoes become even more important in maintaining our merchant fleet.

Mr. Chairman, as you know, Public Law 664 directs that it shall be implemented "in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas." On January 9, 1981, the Maritime Administration published a proposed rule in the Federal Register to implement this phrase "by geographical areas" by prescribing the geographical allocations of preference cargoes among the ports in the four coastal areas of the United States: the Atlantic Coast, the Pacific Coast, the Gulf Coast, and the Great Lakes. The Proposed Rule would have required that each agency administering programs subject to the Cargo Preference Act implement regulations which would assure that preference cargoes were exported from designated coastal ranges on a proportionate basis, with the proviso that no one range would receive less than 10 percent of such cargo. On the basis of comments received concerning the proposed rule, and our own review of the situation, on July 28, 1981, the Maritime Administration concluded that implementation of the rule would require the affected Federal agencies to take steps which would go substantially beyond what would be considered necessary and practicable under Public Law 664. However, based on these comments, we concluded that there is sufficient basis for the Agency to initiate discussion with the relevant Federal agencies in an effort to encourage an equitable distribution of preference cargo, and undertook to do so.

We have already held a number of meetings with the major Federal agencies which generate oceanborne shipments. The purpose of these meetings was to encourage more movement through the Great Lakes region. In this regard, U.S.D.A. purchases of Public Law 480, Title II commodities transported through Great Lakes ports, which amounted to 26 percent of the total through all coasts in 1980, has risen to 40 percent in 1981, and has maintained that level so far in 1982. Additionally, my staff began an intensive effort to examine the various cargo shipments subject to cargo preference, and to identify potential cargoes which could be moved through the Great Lakes. In this effort, we have been very successful. We were able to convince a major Federal program recipient to move a major portion of military cargoes this way. The country involved had never utilized the Great Lakes previous-

ly because its national flag vessels do not serve the Lakes. So far this season, they have moved more than 10,000 revenue tons through the Great Lakes on U.S.-flag vessels. We believe that further efforts will also prove successful.

Mr. Chairman, we have also been asked to comment on Senator Dixon's bill, S. 2511. The bill would amend the Merchant Marine Act of 1936, to provide that government generated cargoes transported on United States-flag or foreign-flag vessels shall be shipped at the lowest landed cost. "Lowest landed cost" refers to the cost of transportation from the point of production to the port of entry abroad. The consolidation of cargoes and the use of competitive bidding to ensure lowest landed costs would be encouraged. This "lowest landed cost" requirement could be waived by the President or the Secretary of Defense for reasons of national security or on the basis of a national emergency.

Our examination of the proposal would indicate that it would not reduce, in any meaningful way, the transportation costs of cargoes subject to Public Law 664. Indeed, we have reason to believe that the stringent administrative requirements mandated by the bill would actually increase the overall costs of such programs. Additionally, as we read the bill, it would place an administrative burden on the private sector that might not be found acceptable.

Federal agencies generally administer their cargo preference projects in a manner that would minimize overall project costs. This may not necessarily involve the lowest shipping costs, since shipping is usually only one element of an overall project budget. For example, it could be cheaper to pay higher shipping costs if they would result in more significant reductions in cargo acquisition costs, inland freight charges or handling and delivery costs at the port of destination.

There are similar concerns about the requirement in S. 2511 that Government agencies consider cargo consolidation in order to achieve the lowest shipping costs. Consolidation would, almost inevitably, result in shipping delays. Any such delay in shipment could make it difficult to administer programs in an orderly fashion and could significantly raise overall costs on many projects. However, these factors could not be taken into consideration under the standards set forth in S. 2511.

Finally, there is a legitimate concern that statutory requirements such as those in S. 2511, could be used as the basis for protesting the award of shipping contracts. An award to an apparently low bidder for shipping services could be protested on the grounds that, through further consolidation or delay, shipping services could have been procured at even lower dollar rates. Thus, such a requirement could seriously impede the efficient administration of even the programs for procuring shipping services.

In our view, shipping services for most Government-impeled cargoes are already being booked on the basis of lowest landed costs, consistent with overall project requirements. Federal procurement regulations require Federal agencies, grantees, contractors to award contracts on the basis of competitive bidding. For shipping, this is synonymous with the proposed "lowest landed costs". Under the Export Import Bank (Ex-Im) programs which are subject to Public Resolution 17, contracts are awarded on the basis of the lowest bid that is approved by Ex-Im. This is generally an implied "lowest overall landed cost" basis. Although Ex-Im cannot control cargo movements, normal commercial practices dictate the utilization of the lowest convenient shipping price offered by an American or foreign flag carrier.

Mr. Chairman, I would like to conclude my statement with the observation that I am very much aware of two matters which are of particular concern to your Committee. One of these is the access of Great Lakes ports and carriers to their equitable share of preference cargoes. As I have stated above, I am doing all possible to urge and assist the concerned Government agencies to assure that their cargo is routed through the Great Lakes ports in keeping with the lowest landed cost practice.

The second of these concerns is the reduction of the cost to the Government of cargo preference. This cost is largely concentrated under Title I programs involving full cargo shipments by bulk vessels. I want to assure you that we are equally concerned, and are giving careful attention to reduction of these costs. We already have a number of recently constructed energy conserving bulk carriers which are achieving lower rates on the cargoes they carry than do most of the older, less economical vessels that have been the base of our dry bulk fleet. It is intended that the President's new maritime program will attract more of these modern economical bulk carriers. This, together with the cooperation of the labor organizations which are already achieving more efficient manning scales, should result in decreased costs to the Government of providing this bulk transportation capability.

Thank you, I would be glad to answer any questions you may have.

[The following information was subsequently received for the record:]

U.S. DEPARTMENT OF TRANSPORTATION,
MARITIME ADMINISTRATION,
Washington, D.C., April 29, 1982.

Hon. WARREN B. RUDMAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RUDMAN: Secretary Drew Lewis has asked me to respond to you, as requested by Senator Slade Gorton, on a report which you received from a constituent, that in two cases last fall U.S.-flag ships receiving a shipping subsidy arrived in Karachi, Pakistan, and Chittagong, Bangladesh, unloaded their Public Law 480 cargoes, and were sold for scrap. I am also addressing an identical response to Senator Gorton.

We can advise that no U.S.-flag ships receiving operating-differential subsidy (ODS) have terminated their voyages as indicated in that report. The report may possibly refer to a U.S.-flag vessel, the S/T *Angelina*, which was approved by the U.S. Department of Agriculture on July 22, 1981, to carry a part cargo of 11,650 metric tons of crude degummed soybean oil from the U.S. Gulf to Chittagong, Bangladesh, under Public Law 480, Title I. The same vessel was approved on August 4, 1981, to carry a part cargo of 4,000 metric tons of soybean oil on the same voyage from the U.S. Gulf, to Karachi, Pakistan.

The vessel owner applied to the Maritime Administration on August 25, 1981, for approval, pursuant to Sections 9 and 41 of the Shipping Act of 1916, as amended, (46 U.S.C. 808 and 839), of the sale of the S/T *Angelina* for scrap to India, Pakistan, or Bangladesh upon completion of the voyage. This approval was granted.

The S/T *Angelina* was not receiving ODS. In any event, such subsidy would not be payable beyond the end of the economic life of the vessel, which in this case would be 25 years. Under an ODS contract, a vessel may be supported through the end of its economic life. If a vessel is removed from the contract, it may not be scrapped prior to the expiration of its economic life. However, at the end of the economic life of the vessel, the owner may dispose of it either by trade-in for new construction or by other means.

The law has not established a limit on the economic life of a U.S.-flag for participation in the carriage of cargo under the Public Law 480 program. The rates paid on Public Law 480 cargo are not "bonus" rates, but are simply rates found to be fair and reasonable for U.S.-flag vessels based on the costs for such vessels. Thus, an approach as suggested, which would require a vessel to remain in active U.S.-flag merchant duty for 1 or 2 years after carrying a Public Law 480 cargo, or pay back a portion of the rate, would preclude many useful older ships from participating in such cargoes. The operators are usually unable to predict that far in advance the market conditions and vessel status on which a decision to scrap would be based, and they would not generally commit to voyages at rates which might subsequently be reduced below cost levels.

Please let me know if further information is required.

Sincerely,

H. E. SHEAR,
Maritime Administrator.

QUESTIONS OF SENATOR INOUE AND THE ANSWERS OF THE MARITIME ADMINISTRATION

Question 1. Sen. Dixon in his testimony, said he has heard a number of complaints that ODS payments are being used, not for ocean freight differentials, but to pay higher rates to railroads and thereby, divert cargoes from the Great Lakes to other port ranges.

(A) Have you heard any such complaints?

(B) If accurate, is this a proper use of ODS funds?

(C) Does MarAd have any way of checking this in its Administration of the ODS program?

Answer. (A) We have not heard of this specific complaint regarding use of ODS.

(B) ODS is not in fact available for this purpose. It is not based on ocean freight differentials. ODS is calculated by MarAd to reflect the difference in shipboard labor costs, maintenance and repair costs, and insurance costs between the U.S.-flag

vessels and the competing foreign-flag vessels. Since these cost differences are very real, ODS does not provide a resource for absorbing cargo related expenses.

Both U.S.-flag and foreign-flag ocean carriers are increasingly providing intermodal service as a competitive factor. Any absorptions of railroad rates by ocean carrier in establishing intermodal through rates must come out of freight revenues.

Question 2. (A) Do you view Cash Aid Programs and Agricultural Export Credit Programs as being subject to the cargo preference laws?

(B) Do the agencies administering those programs agree with your view?

Answer. (A) We have interpreted that P.L. 664 clearly covers Federal foreign assistance programs, such as USDA's export credit program and AID's cash transfer program. The Congress exempted the medium term credit program of USDA's export credit program, from the application of Public Law 664.

(B) Neither USDA nor AID concur with our interpretation as to their respective programs.

Question 3. This morning the Committee will hear testimony that AID has persisted in "Removing those cargoes on which it has received waivers from its compliance calculations, thereby making its compliance history appear to be satisfactory. The practical effect of this system is to reduce AID's efforts in employing the maximum number of U.S.-flag vessels based on their claim that they have met the legal requirements."

(A) If this is accurate, doesn't it at least indicate a failure to comply with the spirit of the cargo preference laws?

Answer. We believe AID could, in several areas, take additional "necessary and practical" measures as intended by the law to assure that at least 50 percent of AID's cargo is carried by U.S.-flag vessels.

The first step would require other program recipients or projects to use U.S.-flag vessels for greater than the 50 percent requirement AID imposes on a particular project or shipment, to make up for the deficit created in other program areas. This practice is followed by various Federal agencies. Such as approach by AID would clearly be in compliance with both the spirit and intent of the law.

Question 4. Do you advise the Department of Energy on a current basis of the availability and position of U.S. tankers?

Answer. We have maintained regular, frequent contact with DOE officials on all facets of their program and U.S.-flag vessel information, from the very inception of the program. We also periodically apprise them of vessel availability to assist them on their planning and chartering activities. However, we do not survey the market per se for vessel availability unless requested.

Question 5. Inasmuch as the Jones Act applies to oil purchases from Alaska for the Strategic Petroleum Reserve Program, and therefore must be moved on U.S. vessels, should Alaskan oil be included in calculating DOE's compliance with the cargo preference laws?

Answer. No. We have also specifically detailed to DOE on several occasions the basis for our determination why Alaskan oil cargoes are not to be included in the cargoes subject to Public Law 664. DOE continues to disagree with our position.

Question 6. There are, of course, very few dry bulk carriers in the U.S. merchant fleet. I believe there are about 17. Does this mean that in many cases U.S.-flag vessels are not available to carry government-generated cargo, such as the aid commodity import program whereby loans and grants are made to foreign governments to import U.S. goods?

Answer. Because of the limited number of dry bulk vessels, in certain agency programs, such as for AID, U.S. flag participation is below the 50 percent level. In several cases, the use of tankers and liner vessels by the agencies has enabled us to reach a credible U.S. flag participation percentage, but not to achieve the 50 percent participation level.

Question 7. According to MarAd's latest annual report (1979), it monitors the shipping activities of 67 federal agencies to assure that applicable cargo preference statutes are being followed.

Are there major gaps in MarAd's monitoring activities? Because if there are, wouldn't it mean agencies might be evading the requirements of the cargo preference laws?

The reason I ask this is because the 1978 GAO report found there were major gaps. For example:

(1) Although MarAd requires agencies to submit bills of lading for government-financed ocean shipments, many of these shipments are never officially reported. The Agency for International Development (AID) failed to submit bills of lading for approximately 40 percent of the loan and grant shipments reviewed by the GAO. Rather, AID submitted "Summary Statistics" to MarAd.

(2) The General Services Administration (GSA) contracts with commercial freight forwarders for the management of government-financed ocean shipments. These private freight forwarders are required to submit monthly shipping reports, but an average of 43 percent of the voyages contracted for were not reported in 1976. The GSA repeatedly failed to enforce all reporting requirements.

(3) Department of Defense (DOD) cargo preference shipments have been excluded from MarAd's reporting requirements. MarAd's computer system was unable to meet military security standards and adequate regulations could not be drafted until all DOD programs having cargo preference applicability were identified.

Answer. With respect to the alleged "gaps" detailed by the 1978 GAO Report, MarAd has made major accomplishments in tightening up these areas:

(1) MarAd made an arrangement with AID to review a monthly computer print-out containing the shipping data processed for each loan and grant. This data has provided MarAd with complete shipping information not previously obtainable through receipt of bills-of-lading.

(2) By establishing a more closely aligned working relationship, we have bridged the gap in the shipment reporting system employed by the GSA contract freight forwarders. We now communicate directly with each of these freight forwarders.

(3) MarAd now receives computer tape reels on DOD's MSC's activities as well as data on the FMS and MAP cargoes. Our computer system has met the DOD security requirements.

Question 8. I realize that it may be difficult for you to respond readily to my questions about how federal agencies complied with the cargo preference laws for 1979, because that was three years ago.

But, even though MarAd is to report to congress every year on cargo preference, the last report we received was for the year 1979.

I assume this reporting lag is due to the fact that MarAd receives its information from the various federal agencies on a delayed basis.

(A) Doesn't this lag hinder MarAd's efforts to see that the cargo preferences laws are observed?

(B) Don't you think this delay makes it difficult for congress to conduct oversight? I mean we are talking about what occurred in 1979?

(C) Could MarAd shorten the reporting law period?

Answer. (A) Our Division of National Cargo has trade specialists who monitor specific federal agencies. These individuals specialize in the agencies and their programs and they are quite current as to the approximate percentage utilization of U.S.-flag vessels in these programs. Of course, faster reporting would help.

(B) and (C) The reporting delay to congress occurs because of other factors involved in the preparation of MarAd's Annual Report. Actually our data is ready in a final form around November 30 of the following calendar year. If the committee desires, we could provide the Committee the data within 12 months after the close of the calendar year which is being reported.

Question 9. I believe that you recently testified before the House that the cargo preference laws applied to the recent transaction where the government (commodity credit corporation) "bartered" the export of dairy products to Jamaica as part payment for bauxite which we received from Jamaica. And, in fact, all of those dairy products moved on U.S. vessels.

But isn't it true that the shipment of those dairy products was put out for bid, and it was just happenstance that a U.S.-flag was low bidder? If a foreign-flag had been low bidder, it would have carried those dairy products.

In other words, MarAd did not assert the application of the cargo preference laws "before the event."

(A) Isn't this part of the problem? "after the fact monitoring" just isn't enough to assure compliance with the cargo preference laws.

(B) Afterwards, did you inquire of the commodity credit corporation, which was responsible for shipping the dairy products, why it felt it could put the entire shipment out for bid, instead of applying cargo preference?

Answer. (A) MarAd officials met on several occasions with the General Sales Manager, USDA and specifically informed him of our determinations that the barter transaction was subject to Public Law 664 if concessional pricing was involved. He informed us that USDA disagreed with our position, in that they felt that concessional prices were not employed, but that USDA would encourage the Jamaican Government to use U.S.-flag vessels.

(B) We subsequently met with USDA officials who informed us that Jamaica had been approached at the highest level about using U.S.-flag vessels. USDA was given assurances that U.S. vessels would be used if they were competitive. USDA also

stated that since they felt that cargo preference did not apply to this barter transaction it was perfectly appropriate for Jamaica to solicit bids from all carriers.

Question 10. According to testimony this committee received from MarAd in 1980, GAO ruled that the Cargo Preference Act did not apply to the Dept. of State/AID cash transfer program for Israel.

MarAd testified that it was preparing an appeal to reconsider this decision.

(A) Does the law make GAO the arbiter when there are disagreements between MarAd and other agencies as to the applicability of the cargo preference laws?

(B) To whom was MarAd preparing to appeal from GAO's decision?

(C) I believe there has been an agreement worked out regarding the cash transfer program for Israel? But I believe the fundamental issue of whether the cargo preference laws apply in such cases has not been resolved. Is my understanding correct?

Answer. (A) When there are disputes between Federal agencies and there is no clear authority in the statute in question as to which agency has the authority to interpret the law, the Comptroller General is entitled to interpret the law.

(B) MarAd will be preparing the appropriate appeal to the Attorney General or the Comptroller General.

(C) Your understanding is correct.

Question 11. In its 1978 Report, GAO said that the applicability of cargo preference laws was in dispute as to: Department of Defense Co-Production, and Offset Military Sales Agreements; Eximbank's Insurance and Medium Term Loan Guarantees; and Department of Commerce/Economic Development Administration Loans. Do the cargo preference laws now apply to these transactions?

Answer. MarAd takes the position that Public Law 664 applies to all these programs.

Regarding the Department of Defense Co-production and Offset Military Sales Agreements, when the U.S. military departments are actually involved in the procurement of material under these arrangements, Public Law 664 clearly applies.

We have not yet reached final agreement with the Export-Import Bank on the medium term loan guarantees. However, it is clear that Public Law 664 does not apply to the insurance program of the Bank.

Because of the massive reduction in funding for the Economic Development Administration's loan program in 1981, it no longer generates any ocean shipments. We, therefore, are not pursuing the program any more.

Question 12. Is it accurate to say that MarAd interprets the cargo preference laws to apply to all cargoes that would have moved if the Federal government had not been involved? (1978 GAO report).

(A) If so, has MarAd asked each of the 67 Federal agencies whose programs it monitors if they accept MarAd's interpretation? If so, have any agencies disagreed: and if they have, what has MarAd done?

(B) If MarAd has not asked each of these agencies if they accept your interpretation, wouldn't it be a good idea to do so? After all, if you find out that an agency disagrees after it has shipped cargo on a foreign-flag vessel, it may be too late to assure 50 percent moves on U.S.-flags.

(C) MarAd monitors 67 Federal agencies to assure the cargo preference laws are being followed. Do you know if there are additional agencies or programs to which the cargo preference laws should apply?

Answer. (A) Yes. Several agencies have disagreed with certain of our interpretations, such as the Department of Energy, U.S. Department of Agriculture, AID and the Export-Import Bank. With respect to the Export-Import Bank, we are still in the process of negotiating with them on this issue and do not feel that our differences are irreconcilable.

However, regarding AID, the Department of Energy, and the Department of Agriculture, if we are unable to reach agreement, we have available the option of seeking a ruling from the Attorney General or the Comptroller General.

(B) Differences in interpretation generally develop not so much on a total agency basis, but on the application of cargo preference to a particular agency program which may be a new program, or a program which has undergone a change in format. MarAd makes every effort to identify such situations as they develop, and to assure at the outset that the interpretation is agreed to between the agency and ourselves.

(C) MarAd is continually researching the Government's activities to determine if there are additional programs and cargoes for the merchant marine.

Question 13. The 1978 GAO report recommended that in its annual report to Congress on cargo preference, MarAd list those agencies which do not comply with MarAd's determinations that cargo preference laws apply and the reasons why the agencies do not comply.

(A) Does MarAd do this?

(B) If not, do you think it will be helpful for congressional oversight if you did?

Answer. (A) MarAd will identify in its 1981 annual report on Cargo Preference a Federal agency which has not complied with our determinations. It should be recognized that there are occasions where an agency may not fully concur with our initial interpretation. However, it would be premature to report such an agency as not complying with the law. It may take several approaches on the particular matter before the agency finally agrees with our position. In fact, this type of operational situation is not unusual in our enforcement of the law.

Question 14. Under section 216 of the Foreign Assistance Act of 1961, AID is authorized to pay the freight on certain ocean shipments of goods donated by voluntary agencies to needed countries.

(A) Does AID agree that the cargo preference laws apply to this program? According to the 1978 GAO report, although AID required 50 percent of that cargo be shipped on U.S. bottoms, it did not submit shipping reports to MarAd because it maintains cargo preference does not apply.

Under the circumstances, how can MarAd monitor that program effectively?

Answer. (A) MarAd has interpreted the law to require that it applies when the equipment, materials and/or supplies are purchased with Federally sponsored funds. However, when the commodities are not purchased with U.S. funds and merely the freight costs are financed, the law does not apply to these cargoes.

Question 15. (A) Are there disputes between MarAd and agencies as to what are "purely commercial cargoes", and therefore not subject to our cargo preference laws?

(B) If so, isn't there a way to resolve this situation once and for all?

For example, last congress I introduced legislation (S. 1461) which would have provided MarAd with general authority to determine which government programs are subject to the cargo preference laws.

Would MarAd support legislation such as S. 1461?

Answer (A) One of the most plaguing problems with Public Law 664 and MarAd's administration of the law is that agencies will dispute MarAd's authority to interpret the law and determine which cargoes are subject to the Act.

(B) It would be most helpful to clearly delineate MarAd's authority to interpret Public Law 664. However, the overall impact of such legislation would have to be examined before we could indicate whether MarAd would support it.

Question 16. (A) Does cargo preference apply to Department of Defense "prime contractor" shipments in fulfillment of defense contracts? To "first tier subcontractor shipments"?

(B) If not, does MarAd believe the cargo preference laws as now written do apply?

Answer. (A) and (B) Our interpretation of Public Law 664 is that the Act applies to prime contractors and all sub-contractors, regardless of the tier. This interpretation would apply to any DOD contractors and related sub-contractors.

U.S. DEPARTMENT OF TRANSPORTATION,
MARITIME ADMINISTRATION,
Washington, D.C., August 23, 1982.

HON. SLADE GORTON,
Chairman, Subcommittee on Merchant Marine, U.S. Senate, Washington, D.C.

DEAR SENATOR GORTON: You recently inquired as to the arrangements for refunding a portion of the rate attributable to the return voyage of the *Perryville*, a vessel owned by Keystone Shipping Company, for which vessel the Maritime Administration (MarAd) has granted permission to scrap following an outbound voyage to Pakistan with Public Law 480 cargo.

At the time the Public Law 480 cargo was contracted for, it was considered possible that the vessel might be sold for scrap without returning to the United States. Accordingly, the U.S. Department of Agriculture (USDA) made a provision with the owner for an adjusted rate in the event this did occur, within guideline rates provided by MarAd.

We are advised that payments approved by USDA for this vessel will be based on the appropriate adjusted rate. Please let me know if I can be of further assistance.

Sincerely,

H. E. SHEAR,
Maritime Administration.

Senator GORTON. We will go on to Mr. Vaughan first.

Mr. VAUGHAN. Mr. Chairman, my name is William A. Vaughan. I am the Assistant Secretary of Energy for Environmental Protection, Safety and Emergency Preparedness. I have here with me this morning two members of the Department staff; namely, Mr. Craig Bamberger, from the Office of General Counsel and Mr. Richard Furiga, the Deputy Assistant Secretary in charge of the Strategic Petroleum Reserve.

Pursuant to your request, I will this morning summarize my more formal remarks which I have filed for the record and give a brief synopsis of those remarks.

The Department of Energy program most affected by the requirements of the Cargo Preference Act is the strategic petroleum reserve. DOE and its Department of Defense procurement agents are fully committed to carrying out the strategic petroleum reserve's oil acquisition activities in accordance with the requirements of the Cargo Preference Act, and we believe the program's activities are in compliance with this act.

We have been successful in using U.S.-flag ships in the SPR program. For example, through the month of May, 52 percent of all ton-miles of Strategic Petroleum Reserve oil transportation this year have been on U.S.-flag ships.

To achieve this success, the strategic petroleum reserve has had to overcome unique problems caused by the peculiarities of petroleum as a commodity and by world events affecting the international oil market. In particular, the program's need to buy oil on the spot market has posed obstacles to the Cargo Preference Act performance, since a large portion of this oil consists of cargoes already at sea on foreign-flag vessels.

In order to overcome these difficulties, the Department has taken numerous positive steps to emphasize U.S.-flag ship utilization, and I will quickly summarize those steps:

A. The awarding of a long-term contract to Petroleos Mexicanos on an f.o.b. origin basis, which allows the Department to use U.S.-flag vessels to transport the oil to our storage sites:

B. Specifying in all strategic petroleum reserve crude oil acquisition solicitations that preference would be given to U.S.-flag and f.o.b. origin transportation offers:

C. Renegotiating foreign flag f.o.b. destination crude oil supply contracts to provide for U.S.-flag shipping:

D. Renegotiating foreign flag f.o.b. destination crude oil supply contracts to arrange delivery to transshipment terminals, thus allowing U.S.-flag delivery from the transshipment terminals to our strategic petroleum reserve terminals:

E. Providing to all potential crude oil supply contractors information about U.S.-flag ships potentially available for crude oil shipments and information about how to obtain assistance in locating U.S.-flag vessels:

F. Notifying industry of the Government's willingness to pay U.S.-flag cost differentials:

G. Issuing numerous notifications and solicitation amendments to reinforce the Government's expression of preference for U.S.-flag vessels:

And finally, H, negotiating extended delivery periods on f.o.b. origin purchases in order to facilitate the positioning of U.S.-flag vessels.

There has been to my knowledge no single instance in the history of the program in which any fair and reasonable U.S.-flag oil sale offer has been rejected in the SPR's oil acquisition program.

DOE remains committed to the goals of the Cargo Preference Act; however, there is an additional statutory mandate to fill the strategic petroleum reserve rapidly. We believe the appropriate balance has been struck between these considerations and that the Cargo Preference Act should not become the dominant consideration in the program's oil procurement process.

There is a significant risk, if this were to happen, that the requiring of greater cargo preference efforts on the program would exclude opportunities to the program to acquire crude oil at the most favorable world market prices and in that manner jeopardize our ability to meet the basic mission of the program, that is to meet the fill requirements in a timely manner.

Mr. Chairman, that concludes my remarks. I will be available for your questions.

[The statement follows:]

STATEMENT OF WILLIAM A. VAUGHAN, ASSISTANT SECRETARY, ENVIRONMENTAL PROTECTION, SAFETY, AND EMERGENCY PREPAREDNESS, DEPARTMENT OF ENERGY

Mr. Chairman, I appreciate the opportunity to appear before this Subcommittee to present the Department of Energy's (DOE) views on the administration of the Cargo Preference Act. This Act requires U.S. Government agencies to take such steps as may be necessary and practicable to transport 50 percent of their cargoes on U.S.-flag vessels, to the extent such vessels are available at fair and reasonable rates.

The DOE program most affected by the requirements of the Act is the Strategic Petroleum Reserve (SPR) which involves the delivery by ocean tanker of large quantities of crude oil for storage in its facilities. The SPR is a high priority emergency preparedness activity of this Administration, which has broad support in the Congress. During calendar year 1981, we filled the SPR at an average rate of 335,000 barrels per day. We are continuing to fill it as fast as we can develop permanent storage facilities, and the average fill rate through May of this calendar year has been 203,000 barrels per day.

DOE and its Department of Defense (DOD) procurement agents for oil and shipping, the Defense Fuel Supply Center and the Military Sealift Command, are fully committed to conducting the SPR's oil acquisition activities in accordance with the requirements of the Cargo Preference Act, and we believe the program's activities are in compliance with that Act.

The fact is that we have been successful in using U.S.-flag ships in the SPR program. I wish to emphasize that this calendar year, through the month of May, 52 percent of all ton-miles of SPR oil transportation have been on U.S.-flag ships. The cumulative deliveries from the SPR's first oil purchases in 1977 until the present time show a total programmatic rate of U.S.-flag usage of 44.5 percent, which has been achieved despite a 1977 shortfall due to scheduling difficulties in the SPR's initial purchases, and a continuing need to overcome unusual obstacles.

The SPR does face unique problems in implementing the provisions of the Cargo Preference Act. Petroleum supplies are subject to significant market fluctuations. Petroleum may be the only major commodity which often has been loaded aboard a ship and already is at sea when it is purchased. Since industry does not routinely use U.S.-flag vessels to import crude oil into this country, petroleum purchased at sea almost invariably is on a foreign flag vessel.

The SPR Cargo Preference Act performance has also been hindered by world events affecting the oil market. In 1979, the Iranian crisis resulted in the loss to the world market of a significant source of crude oil. As a consequence, crude oil then under contract for the SPR and scheduled to be transported on U.S.-flag vessels was

never received. The previous Administration also decided to suspend SPR fill because of the crisis.

In June 1980, the Congress passed the Energy Security Act mandating a resumption of oil acquisition. As the Congress had envisaged, fill of the SPR in fact was resumed through the exchange of Naval Petroleum Reserve (NPR) oil on the west coast for other oil to be delivered to the SPR's gulf coast sites. When the NPR exchange was conducted in September and October 1980, very few reasonable offers of foreign oil involving U.S.-flag shipping, or F.O.B. origin offers of foreign oil which would permit use of U.S.-flag vessels, were received. Although such offers were accepted, most offers were of Alaskan North Slope oil or imported oil on foreign flag ships. Extraordinary efforts were made to renegotiate foreign flag, F.O.B. destination, contracts in order to increase the use of U.S.-flag vessels, but with only limited success.

Subsequent to the NPR exchange, the SPR has been heavily dependent on the "spot" market for its oil supplies. A conscientious effort was made to acquire cargoes on U.S.-flag ships, but a large portion of the oil available to the Government consisted of cargoes already at sea, on foreign flag vessels. The purchase of this oil could not have been foregone without adversely affecting the SPR's fill rate.

More recently, increasing quantities of "spot" market oil have been offered for sale to the Government on an F.O.B. origin basis which permits the use of U.S.-flag vessels. However, the firms offering this oil have only limited control over the lift dates which are established by their suppliers; thus the ability to utilize U.S.-flag vessels for such cargoes depends largely on the capability of the U.S.-flag ships to position themselves in a timely manner.

In order to overcome these difficulties, DOE has taken numerous positive steps in an effort to increase U.S.-flag ship utilization. These steps include:

A. Awarding a long-term contract to Petroleos Mexicanos (PEMEX) on an F.O.B. origin basis which allows DOE to utilize U.S.-flag vessels to transport the oil to the SPR storage sites.

B. Specifying in all SPR crude oil acquisition solicitations that preference would be given to U.S.-flag and F.O.B. origin transportation offers.

C. Renegotiating foreign flag, F.O.B. destination, crude oil supply contracts, to provide for U.S.-flag shipping.

D. Renegotiating foreign flag, F.O.B. destination, crude oil supply foreign flag, F.O.B. destination, crude oil supply contracts, to arrange delivery to transshipment terminals, thus allowing U.S.-flag delivery from the transshipment terminals to SPR terminals.

E. Providing to all potential crude oil supply contractors information about U.S.-flag ships potentially available for crude oil shipment and about how to obtain assistance in location U.S.-flag vessels.

F. Notifying industry of the Government's willingness to pay U.S.-flag cost differentials.

G. Issuing numerous notifications and solicitation amendments, to reinforce the Government's expressing of preference for U.S.-flag vessels.

H. Negotiating extending delivery periods on F.O.B. origin purchases in order to facilitate the positions of U.S.-flag vessels.

Mr. Chairman, I wish to stress that there has been no single instance in which any fair and reasonable U.S.-flag oil sale offer has been rejected in the SPR's oil acquisition program.

While we remain committed to the goal of the Cargo Preference Act, the SPR has additional statutory mandates, and we do not believe the Cargo Preference Act should be the dominant consideration in the oil procurement process. The Administration is committed to filling the SPR rapidly. That clearly is the intention of the Congress also, which acted in the Omnibus Budget Reconciliation Act of 1981 to set an SPR fill goal of 300,000 barrels per day, and has mandatory legislation pending before it even now.

The unstable character of the international crude oil market demands a high degree of flexibility in the SPR crude oil acquisition program in order to achieve program goals. The 50 percent U.S.-flag requirement of the Cargo Preference Act often calls for extraordinary crude oil procurement measures. We believe the appropriate balance has been struck between these considerations. There is a significant risk that requiring greater cargo preference efforts in the SPR program would exclude opportunities to acquire crude oil at the most favorable world market prices, and jeopardize our ability to meet fill goals in a timely manner.

In conclusion, I would like to reiterate the Department's commitment to compliance with the Cargo Preference Act. Though such compliance has created difficulties for our Strategic Petroleum Reserve crude oil acquisition program, the Depart-

ment of Energy and its DOD procurement agents have taken and will continue to take all necessary and practicable steps to satisfy the Act's 50 percent standard.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

WORTH OF CARGO PREFERENCE

Question. Do you believe that programs, such as cargo preference, are necessary to support a U.S.-flag merchant fleet? In other words, is it worth our while to support the fleet at all for military, commercial or strategic supply purposes?

Answer. As stated in the testimony, DOE is committed to the goals of the Cargo Preference Act. We fully concur with the recent statement of the President that he supports the cargo preference requirements of current law. We would note that the very large crude carriers (VLCCs) used in the Strategic Petroleum Reserve (SPR) program would seem to have limited usefulness in supporting a military operation since the military's need is for relatively shallow draft, refined product carriers which can conduct underway fleet replenishment and enter ports for loading and discharging cargoes.

DISRUPTION OF OIL IMPORTS

Question. Do you have any view whether there would be a disruption of oil import service in time of war resulting from the inadequacy of a U.S.-tanker fleet?

Answer. The answer to this question depends on what assumptions are made about the specific nature and the dimensions of a particular hypothesized war. However, it should be noted that the world's major tanker fleets are registered in countries friendly to the U.S., many are owned by U.S. companies and there exists a large surplus of oil tankers throughout the world.

PURPOSE OF CARGO PREFERENCE

Question. You assert that: "Since industry does not routinely use U.S.-flag vessels to import crude oil into this country, petroleum purchased at sea almost invariably is on a foreign flag vessel." Isn't it exactly the point of the cargo preference program to provide cargo to U.S. vessels to insure they are gainfully employed even when the industry may not routinely use them for general commercial traffic? This seems like a lame excuse, is it not?

Answer. DOE isn't making excuses. DOE and the Department of Defense have made strenuous and conscientious efforts to fulfill the goals of the Cargo Preference Act. Our point simply was that we have had to overcome substantial obstacles in order to accomplish this without sacrificing the main statutory purposes of the SPR.

While DOE is committed to the goals of the Cargo Preference Act, and has provided substantial cargoes to U.S.-flag vessels to employ them on a preferential basis, a balance must be struck between the goals of that Act and the statutory requirements of the SPR. As was stated in my testimony, there is a significant risk that any greater cargo preference efforts would jeopardize our ability to meet fill goals in a timely manner by excluding the SPR from the economically advantageous spot market where cargoes already are in transit on foreign flag vessels, or where a U.S.-flag vessel could not steam to the loading port in time to meet the required load date. Such spot market offers sometimes are the only reasonable offers that the SPR's oil acquisition agent, the Defense Fuel Supply Center, receives in response to its solicitations and they cannot be sacrificed without severely impairing the SPR's legislatively mandated requirements.

The Cargo Preference Act requires agencies to take such steps as are necessary and practicable to meet the 50 percent goal to the extent such vessels are available at fair and reasonable rates. DOE has taken all practicable steps to meet that goal and believes that it is in full compliance with the Act. The cargo preference program is intended to support the U.S.-flag fleet, but we do not believe it mandates cargo preference actions, the effect of which would be to thwart the achievement of an agency's legislatively mandated requirements.

APPLICATION OF JONES ACT

Question. Do the Cargo Preference Act and MarAd's implementing regulations provide that Jones Act cargoes do not count toward the 50 percent Cargo Preference goal?

Answer. No, we do not believe they do. The Jones Act requires that, with certain exceptions, seagoing commerce between points within the U.S., including delivery of Alaskan North Slope crude oil, must be carried exclusively on U.S.-flag vessels. However, nothing in the Cargo Preference Act or in MarAd's implementing regulations at 46 C.F.R. Part 381 specifically indicates that shipments to which the Jones Act is applicable are for that reason to be excluded when computing Cargo Preference Act compliance. The Cargo Preference Act begins, "*Whenever* the United States shall procure. . . ." (emphasis added), and then carves out certain exceptions, but makes no exception for shipments which are subject to the Jones Act. On the contrary, the Cargo Preference Act states that the 50 percent U.S.-flag standard applies to ocean vessel shipments of materials procured "*within or without*" (emphasis added) the U.S., and MarAd's regulations also specify that the cargoes subject to the Act include those "*obtained within or outside*" (emphasis added) the United States. 46 C.F.R. § 381.2(b)(1). It follows, in our opinion, that shipments of Alaskan North Slope crude oil, obtained from "*within*" the country, should be included in the SPR's preference calculation even though such shipments are also subject to the Jones Act.

Certainly, inclusion of Jones Act shipments such as the SPR's Alaskan North Slope crude oil purchases in a Cargo Preference Act calculation in no way derogates from fulfillment of the Congressional objective that, through the Cargo Preference Act, U.S.-flag vessels garner a "substantial portion" of U.S. foreign commerce. Insofar as the SPR program is concerned, this objective has been fully met.

COMPETITIVENESS OF ALASKAN NORTH SLOPE OIL

Question. Could excluding Jones Act cargoes from the U.S.-flag compliance calculation have any effect in SPR procurements on the relative competitiveness of Alaskan North Slope (ANS) oil? Would it affect SPR program costs?

Answer. The relative competitiveness of ANS oil would be reduced, if the delivered foreign-flag price of imported oils was less than the delivered price of ANS. SPR oil procurements have preferred U.S.-flag oil sale offers, to the extent U.S.-flag shipping is required in order to meet the Cargo Preference Act's 50 percent goal on a calendar year ton-miles basis. For example, the most recent SPR oil solicitation provided that "preference will be given to reasonable U.S.-flag transportation offers and origin offers as may be necessary and practicable to meet the objectives of the Cargo Preference Act. . . ." If Jones Act cargoes were excluded from the 50 percent compliance calculation, they would not be eligible to participate in the U.S.-flag preference portion of U.S. Government procurements. In the case of the SPR, this would mean that f.o.b. destination ANS oil might have to be evaluated only against the delivered price of imported oil on lower cost foreign-flag vessels.

The exclusion of ANS Jones Act cargoes from the 50 percent calculation could compel the SPR program to ship 50 percent of its other cargoes on U.S.-flag vessels. This would mean that to the extent both ANS and imported oil were brought for the SPR, the actual programmatic usage of U.S.-flag shipping would have to exceed 50 percent. Since U.S.-flag oil shipping is more expensive than foreign-flag, this would increase program costs.

Of course, at the present time the SPR's crude oil acquisition requirements do not call for additional purchases of ANS.

REQUIREMENT TO MAKEUP PAST YEAR SHORTFALLS

Question. Does either the Cargo Preference Act or MarAd's regulations require that past year shortfalls be made up in future oil procurements?

Answer. No, we do not believe they do. The requirement of the Cargo Preference Act is that "whenever the United States shall procure, contract for, or otherwise obtain for its own account" materials or commodities, the appropriate agency or agencies shall take such steps as may be "necessary and practicable" to assure that at least 50 percent of the gross tonnage which may be transported on ocean vessels shall be transported on U.S.-flag vessels to the extent that such vessels are available at fair and reasonable rates for U.S.-flag commercial vessels. The Act provides that each responsible agency shall administer its programs under regulations issued by the Secretary of Transportation.

The implementing regulations provide, in pertinent part: Each department or agency having responsibility under the Cargo Preference Act of 1954 shall cause each full shipload of cargo subject to said act to be fixed on U.S.-flag vessels prior to any fixture of foreign-flag vessels for at least that portion of all preference cargoes required by that Act to be shipped on U.S.-flag vessels, *computed by purchase authorization or other quantitative unit satisfactory to the agency involved and the*

Maritime Administration, except where such department or agency determines, with the concurrence of the Maritime Administration, that (a) U.S.-flag vessels are not available at fair and reasonable rates for U.S.-flag commercial vessels, or (b) that there is a substantially valid reason for fixing foreign-flag vessels first. (46 C.F.R. § 381.5) (Emphasis added)

There appears to be no further regulatory guidance as to how compliance with the Cargo Preference Act is to be achieved.

U.S.-FLAG VESSEL USAGE

Question. You stated that the total percentage of ton-miles shipped on U.S.-flag vessels for the SPR program from 1977 until the present date was 44.5 percent. Can you estimate the total extent of U.S.-flag usage in procurements initiated by the present Administration?

Answer. Some 26 million barrels of oil delivered to the SPR in early 1981 were the result of exchanges of Naval Petroleum Reserves oil initiated in 1980 by the previous Administration. If these deliveries are excluded, and if only procurements initiated after the present Administration took office are included, the percentage of U.S.-flag participation in the SPR program for 1981 through May 1982 is 48.2 percent.

DEPARTMENT OF ENERGY,
Washington, D.C., July 23, 1982.

HON. SLADE GORTON,
*Chairman, Subcommittee on Merchant Marine,
Committee on Commerce, Science, and Transportation,
United States Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your letter of June 29, 1982, requesting our assurance that 50 percent of all foreign purchases of crude oil for the Strategic Petroleum Reserve (SPR) will be transported on U.S.-flag vessels.

The Department of Energy (DOE) along with its procurement agents, the Defense Fuel Supply Center (DFSC) and the Military Sealift Command, is committed to compliance with the requirement of the Cargo Preference Act. The requirement of the Cargo Preference Act is that Government agencies take such actions as may be "necessary and practicable" to satisfy that Act's 50 percent standard. DOE and its procurement agents have taken, and will continue to take, all reasonable steps to use U.S.-flag vessels in the SPR program. We believe that the SPR's activities are in compliance with the Cargo Preference Act.

Based on contracts awarded to date, including the Petroleos Mexicanos contract for which we intend to use U.S.-flag vessels exclusively, we estimate that our 1982 U.S.-flag utilization would be 58 percent. If the small amount of Alaskan purchases made early in 1982 were to be excluded from this calculation, as you letter suggests, the utilization number still would be well in excess of 50 percent. We hope and expect that the steps we have taken to encourage U.S.-flag participation will promote at least 50 percent U.S.-flag utilization in future years.

Your letter suggests that the Alaskan North Slope crude oil shipments should be excluded from the SPR's cargo preference compliance calculation because such shipments are also subject to the Jones Act. Let me explain why we think the language of the relevant statutes leads to the opposite conclusion.

The f.o.b. destination delivery of Alaskan North Slope crude to the Gulf is subject to the Jones Act. The Jones Act requires that, with certain exceptions, seagoing commerce between points in the U.S. must be carried exclusively on U.S.-flag vessels. However, the fact that 100 percent of Jones Act cargoes must be carried on U.S.-flag vessels does not preclude the application of the Cargo Preference Act to those cargoes. The Cargo Preference Act states that the 50 percent U.S.-flag standard applies to ocean vessel shipments of materials procured by the Government "within or without" (emphasis added) the U.S. Moreover, the Maritime Administration's (MarAd's) regulations also specify that the cargoes subject to the Act include those *obtained within or outside*" (emphasis added) the U.S. The plain meaning of the Cargo Preference Act would thus include shipments subject to the Jones Act, because they are shipments of cargoes "obtained within" the U.S. Further, neither the statutes nor the MarAd implementing regulations, contain language indicating that shipments to which the Jones Act applies are for that reason to be excluded when computing cargo preference compliance. It follows, in our opinion, that shipments of Alaskan North Slope crude oil are properly to be included within the

SPR's preference calculation even though such shipments are also subject to the Jones Act.

Alaskan oil was purchased for the SPR, and therefore shipped to the SPR on U.S.-flag vessels, as the result of price-competitive procurements which were open to offers of imported as well as domestic oils. A preference for oil to be delivered on U.S.-flag vessels, over other oil offers, is provided for in the solicitations used in these procurements in order to facilitate SPR compliance with the Cargo Preference Act. The intent is that shipments which will count toward the Act's 50 percent goal will be eligible for this preference. Domestic goods such as Alaskan oil could be competitively disadvantaged in future U.S. Government procurements if they were excluded from the U.S.-flag preference portion of such procurements, and therefore remained eligible to compete only against the delivered price of imported goods on lower-cost foreign-flag vessels. Yet if offers of Alaskan crude oil were ineligible to be included in the Cargo Preference Act's 50 percent U.S.-flag compliance calculation, there would appear to be no statutory basis to afford offers of Alaskan oil a preference in such procurements.

We believe that the main purpose of the Merchant Marine Act is to foster the development and encourage the maintenance of a U.S.-flag merchant marine. Because the SPR has no specific requirement for domestic as opposed to imported oil, that goal is served whenever the Government charters a U.S.-flag vessel to deliver SPR oil, and whether the point of origin is domestic or foreign should make no difference in calculating Cargo Preference Act compliance.

Moreover, as I explained in my testimony on June 16, there is a risk that requiring even greater cargo preference efforts in the SPR program would jeopardize our ability to meet statutorily mandated fill goals in a timely manner. For example, during periods of market tightness, oil supplies available to the SPR have tended to be on the spot market, mainly on foreign-flag vessels. Even when supplies are more ample, much of the oil available to meet delivery requirements is either on foreign-flag ships, or required to be lifted at foreign ports on schedules which our contractors cannot alter, and which U.S.-flag vessels cannot meet.

Therefore, while we remain committed to the Act's goals, we cannot assure without qualification that 50 percent of all foreign purchases of SPR oil will be transported in U.S.-flag vessels, because there may well be situations in which we could not accomplish this goal without at the same time jeopardizing the accomplishment of the program's oil storage mission.

If you require any further information, please call me.

Sincerely,

WILLIAM A. VAUGHAN,
Assistant Secretary, Environmental Protection Safety,
and Emergency Preparedness.

Senator GORTON. Mr. Vaughan, you note with pride a 52-percent rate of U.S.-flag carriage of SPR oil so far this year. How does this compare with each of the last 3 or 4 years?

Mr. VAUGHAN. Let me look that data up, Mr. Chairman.

In 1982, Mr. Chairman, 63.2 percent—

Senator GORTON. 1982?

Mr. VAUGHAN. I am sorry. Here we are. 1981, 46.8 percent; 1980 was 10.8 percent. Do you want to go—

Senator GORTON. One more back.

Mr. VAUGHAN. 29.8 in 1979.

Senator GORTON. So your figure is higher than at least those last 3 years.

Mr. VAUGHAN. Significantly higher, we think, Mr. Chairman.

Senator GORTON. You say that 52 percent of all SPR oil transportation thus far in 1982 has been on U.S.-flag vessels, and that since 1977 the—I am quoting—"total programmatic rate of U.S.-flag usage" has been 44.5 percent. Do these figures include Alaska oil transported domestically on U.S. flag vessels under the mandate of the Jones Act?

Mr. VAUGHAN. Yes, they do, Mr. Chairman.

Senator GORTON. Well, if the Jones Act already requires 100 percent of domestic water-borne transportation to be on U.S.-flag vessels, and if the Merchant Marine Act of 1936 is designed to promote foreign trades, how can you construe the Alaska oil to count toward the 50 percent preference cargo targets?

Mr. VAUGHAN. That oil, Mr. Chairman, is part of the oil we have to ship in this program, and we believe that we should count the number in our figures as part of the program's shipments. The Merchant Marine Act of 1936 does not say that only foreign trade is to be counted. It applies whenever the U.S. Government buys and ships by sea. And the Maritime Administration's regulations appear to include shipments of domestic origin in the 50-percent preference calculation.

Senator GORTON. We have a law that would not allow you to transport the oil from Alaska on anything other than a U.S.-flag vessel. That is to say, if half of our oil came from Alaska, you would construe that you did not have to take any of the rest of the oil on a U.S.-flag vessel.

Mr. VAUGHAN. I guess a literal construction could be to that extent, but again, Mr. Chairman, our point is that we are trying to use U.S.-flag ships and we certainly have no quarrel with this requirement of the Cargo Preference Act. We are trying our best to fully comply with that requirement. Most of our oil is imported and to the maximum extent possible, we've used U.S.-flag ships in transporting it.

So I would—if we had 50 percent of our oil from Alaska, I certainly would see no reason that we would not be interested in the other 50 percent under the Cargo Preference Act. But I do think when we calculate the figures that the facts are that a certain amount of oil is carried from Alaska but most of it is imported from outside the United States.

Senator GORTON. Can you tell me what percent, what those figures would have been if you had ignored Alaskan oil?

Mr. VAUGHAN. Yes, I can. Just a moment.

Senator GORTON. For the same 4-year period?

Mr. VAUGHAN. In the current year, Mr. Chairman, 1982, the figure would be 47 percent as opposed to 52, and in 19—I am sorry. I was using a cumulative figure there for the program. For 1981, it would have been 46.8 percent.

Senator GORTON. That is higher than the figure that you gave us for the whole thing.

Mr. VAUGHAN. I am sorry. I read the wrong line. 26.5.

Senator GORTON. Let us go through those whole 4 years, 1982, 1981, 1980, and 1979.

Mr. VAUGHAN. Alaskan oil was not even involved in the program, Senator, until 1981. So we cannot go back and correct the figures for 1980 or 1979. If we go back and look at the figures for 1981, not counting or excluding Alaskan oil would be 26.5.

Senator GORTON. But you said 47 percent so far for 1982?

Mr. VAUGHAN. And for 1982 it would be 47 percent, not counting—

Senator GORTON. So there is very little Alaskan oil going into that?

Mr. VAUGHAN. That is correct, Senator, and in fact the Alaskan oil shipments in the program are substantially over at this point, and for the immediate future there does not seem to be any significant quantity of Alaskan oil going into the program.

Senator GORTON. If that is the case, of course, this may make this remark partially irrelevant, but I am sure that I speak for my colleague here and myself in saying that to include Alaskan oil, which is subject to the Jones Act, in these figures seems to us not only to be misleading but, I think, a direct violation of the law.

Do you believe that programs such as cargo preference are necessary to support a U.S.-flag merchant fleet?

Mr. VAUGHAN. Yes. I believe the act certainly is necessary.

Senator GORTON. Do you have any views on the availability of the so-called effective control fleet of U.S.-owned flag-of-convenience tankers in the event of war or some other form of national emergency?

Mr. VAUGHAN. Would you restate that question for me, Senator?

Senator GORTON. What are your views about the actual availability of an effective control fleet of U.S.-owned flag-of-convenience tankers in case we were in a war or had some other kind of national emergency? Do you think they would be just as available to us as U.S.-flag vessels?

Mr. VAUGHAN. I believe that U.S.-owned vessels would be generally available to us in the event of a national emergency.

Senator INOUE. Will the Senator yield?

Senator GORTON. Yes.

Senator INOUE. I do not think that was the situation during the Yom Kippur war. I do not suppose that was a national emergency, but at that time the U.S. Government wanted surface vessels to carry war materiel to Israel. As you know, none of the U.S.-owned foreign registered vessels responded. Not one; and we had to carry the cargo on military aircraft. A couple of them were nearly shot down over Egypt.

Senator GORTON. Senator, I am going to defer to you at this point. Admiral Shear, I have a large number of questions for you. I must go to the Energy Committee meeting for a while. To the extent they are not asked by Senator Inouye, we will submit them to you in writing.

Admiral SHEAR. Thank you, sir.

Senator INOUE [presiding]. Is Mr. Smith here?

Mr. SMITH. Yes, sir.

Senator INOUE. Thank you, Mr. Vaughan. Please proceed, sir.

Mr. SMITH. Thank you, Mr. Chairman. I have a statement that I would like to submit for the record.

Senator INOUE. Without objection, the statement will be made a part of the record.

Mr. SMITH. The issue of cargo preference mainly relates to our Public Law 480 program in the Department of Agriculture. This program in the Department of Agriculture is aimed at providing food aid to developing countries overseas. We have two parts to the program. One is Title I, a program for which the Department of Agriculture provides the funding for the private sector to move commodities through private channels to these developing countries. The Title II program is a direct grant program.

We have followed the cargo preference requirements in the law. It is the policy and intent obviously of the Department of Agriculture to follow this fully.

Today, I would just like to comment on two aspects of cargo preference as we see it from our narrow perspective. Over the years, we have seen the cost of the program to the Public Law 480 program increase substantially. Right now, because of the lower charter rates resulting from depressed economic activity in the maritime industry, the differential that we are having to pay has increased substantially in Public Law 480.

For example, this year we are forecasting about a \$26 million increase in the amount of Public Law 480 funding that is required in order to move title I commodities. This is currently about 13 percent of our budget, where in 1981 it was about 10 percent. The concern that we do have is with funding for Public Law 480 decreasing as a result of the general austerity in the budget, that we are in effect seeing a higher percentage of the Public Law 480 funding having to go to pay for the shipment under U.S. flags. In essence, this means less commodities can be moved into foreign trade as a result of this. There are less wheat, corn and other commodities going into trade. To the extent that does happen, it detracts from the main purpose of Public Law 480, which is to move commodities into food aid channels into the developing countries.

We clearly are not in any way questioning the issue of cargo preference per se, but I think any discussion of this has to take this into account; there is a cost involved in cargo preference and in our case the cost is becoming more and more of a burden to the program. The other problem that we have experienced is the use of ships that we believe in many cases have outlived their useful life. We do not think the purpose of the cargo preference legislation is to keep older ships in service.

The basic premise is to improve and upgrade the system. The problem we have with these older ships is, they tend to cause us problems in breakdowns, delays in shipment, and increased cargo damage. We find that there is more damage on these ships than you would normally have on the newer ships. We have worked very closely with the Maritime Administration on this. Admiral Shear and his people have been extremely helpful in working with us to try and correct the situation.

The other problem we have had is the size of the ship. Obviously, the larger the ship, the more cost effective it is to move these commodities. We have worked very closely with the Maritime Administration to help us where we do use the U.S. flags to use the larger more efficient ships. The issue of a strong U.S. fleet and maritime fleet is of immense interest to us.

We think that clearly the more we move in that direction the better it is. The only issue we raise is the cost that is involved in the current system. I think that does have to be addressed realistically. We think it has gotten to the point where the cost of Public Law 480 is becoming a bite, and we are seeing more difficulty moving the quantities that we would like to move into world markets. Clearly if we could move those commodities, given the low farm prices we have right now, that this could be of significance to our farm community.

I think that briefly summarizes what was in my testimony, and I would be glad to answer any questions.

[The statement follows.]

STATEMENT OF RICHARD A. SMITH, ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE,
USDA

Mr. Chairman, thank you for the invitation to discuss with the subcommittee the Department of Agriculture's views on the administration of Public Law 664, the Cargo Preference Act.

As you know, our interest in this law relates largely to its application to commodities shipped under Public Law 480, the Agricultural Trade Development and Assistance Act of 1954. The purpose of the Public Law 480 program is to provide agricultural commodities on concessional terms or as outright donations to developing countries. The objective is to expand U.S. agricultural exports, to combat hunger and malnutrition, to encourage economic development in the recipient countries, and to promote U.S. foreign policy.

Because of the terms of the Public Law 480 program, these cargoes are subject to the Cargo Preference Act requirement that half the tonnage be shipped in U.S. flag vessels.

We are concerned about the increasing costs of meeting this requirement because we must allocate increasing amounts in the Public Law 480 budget for ocean transportation and less for the purchase of agricultural commodities for export. This is occurring at a time when surpluses are exerting downward pressure on U.S. farm prices.

The problem is not as serious in the Title II (donation) program of Public Law 480. The entire cost of ocean freight under Title II is borne by the U.S. Government. However, the majority of Title II cargoes are shipped on common carriers (liners) under published tariff rates and, in most cases, the U.S. flag and foreign flag rates are the same. Accordingly, the additional cost to apply Public Law 664 to these cargoes is in most cases not significant. For the occasional large shipments of bulk grain under Title II that move on non-liners type vessels, the additional cost to use U.S. flag vessels is about \$50 per ton.

Our principal difficulties occur under Title I (concessional sales) and Title III (food for development). The Department's Commodity Credit Corporation does not pay all the freight costs under these titles—only the difference between foreign flag rates and the higher cost of U.S. flag vessels.

However, under Titles I/III, the cost of these differentials to USDA has steadily increased from year to year, rising by \$26 million last year alone. In recent years the average ocean freight differential (OFD) cost per ton under Titles I/III has increased from \$31.80 MT in fiscal year 1978 to \$58.46 MT in fiscal year 1981, as shown in the table.

TITLE I/III PUBLIC LAW 480 OCEAN FREIGHT DIFFERENTIAL

[Expenditures by fiscal year]

	U.S. tonnage metric tons	U.S. percent of total	Ocean freight differential	Average OFD rate per metric ton
Fiscal year:				
1978.....	1,968,507	46.4	\$62,600,000	\$31.80
1979.....	2,200,874	48.6	72,500,000	32.83
1980.....	1,711,055	41.6	63,000,000	36.18
1981.....	1,541,275	42.3	86,700,000	58.46

The increase in the average cost per ton during 1978 through 1980 is attributed mainly to a steady rise in U.S. flag costs while the foreign flag market remained relatively stable.

The dramatic increase in the average rate of OFD in 1981 was caused primarily by the low level of foreign flag rates, and, to a lesser degree, by the rise in U.S. flag rates.

Through May 31 this year, the average differential rate was \$55.64 per ton, down slightly from the 1981 average of \$58.46. The lower rate so far in 1982, is largely the

result of increased competition among U.S. tanker vessels for the Public Law 480 cargoes, owing to reduced demand for tankers in the oil trade.

The lower rate for early 1982 is also attributable in part to the cooperation that we have received from the Maritime Administration in promoting ocean freight differential savings to the USDA through the use of large, efficient vessels, whenever possible.

We appreciate that and we are pleased, also, that the Maritime Administration (Marad) recognizes the problems attendant to the required use of older, smaller, less efficient and more costly U.S. flag vessels.

Many of these older vessels were built in the 1940's and have exceeded their useful life. Breakdowns and delays are not uncommon with these vessels as they struggle to meet their loading dates and deliver the cargo to destination.

Hardly a month goes by without one of our importers complaining about the required use of these old vessels. The people at Marad have indicated to us that they are committed to replacing these older vessels with modern, efficient vessels.

In discussing the high cost of using U.S. flag vessels, and their inefficiency in many cases, I am not suggesting that the USDA is opposed to the effort to revitalize the American Merchant Marine. To the contrary, we support efforts to develop a strong, effective U.S. fleet. We would welcome a fleet that could be depended upon to deliver U.S. exports to destination on schedule, with little or no likelihood of breakdowns, or cargo loss and damage.

However, whatever the condition of the fleet, we can't ignore the fact that the direct budget cost of the ocean freight differential to USDA/CCC under the Title I/III program has increased markedly over recent years, as I pointed out earlier. These increases have come during a period when the funds allocated to purchase and ship commodities have been reduced.

The burden of paying increased freight costs continues to erode our ability to export the agricultural commodities that are sorely needed in many countries. In turn, our farmers are unable to sell commodities that could otherwise be purchased with the funds expended on shipping costs. For example, using last year's ocean freight differential of \$86.7 million for commodities instead of transportation would have increased U.S. exports of wheat by about 19 million bushels, or of rice by almost 4 million cwt.

Let me cite several examples of the cost of U.S. flag vessels versus non-U.S. flag vessels:

U.S. Rate	Foreign rate	OFD	Commodity and destination
112.00.....	34.00	78.00	Wheat—Egypt.
145.00.....	79.00	66.00	Rice—Bangladesh.
140.00.....	60.00	80.00	Flour—Sudan.

Despite the high cost of the ocean freight differential, the USDA has continued to comply, year after year, with the requirements of Public Law 664, as recorded by the Maritime Administration in its annual report to Congress. And we will continue to comply with Public Law 664.

That concludes my statement, Mr. Chairman. We appreciate having had the opportunity to present our views and will be glad to answer any questions.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. You note that the costs of meeting the cargo preference requirement for the Public Law 480 have dramatically escalated. I presume the amount in the Public Law 480 budget used to purchase agricultural commodities has also. Has there been any significant change over the past decade in the percentage of the Public Law 480 program allocated to meet the cargo preference requirement?

Answer. There have been several significant changes in the past 10 years in the percentage of the total Public Law 480 Title I/III funds allocated to meet the cargo preference requirement. The cost of meeting cargo preference is reflected in the ocean freight differential (OFD) as paid by USDA.

In fiscal year 1974, the OFD percentage dropped to 1.8 from 7.6 the previous year. This was primarily due to the high level of non-U.S. flag freight rates.

The percentage increased from 2.8 in fiscal year 1975, to 6.5 in fiscal year 1976, and from 6.9 in fiscal year 1980 to 10.0 in fiscal year 1981. These increases were caused primarily by the low level of foreign flag rates and to a lesser degree by the rise in U.S. flag rates.

Based on the fiscal year 1982 budget, the OFD will be 13.2 percent of the total amount allocated. The projected fiscal year 1982 increase to 13.2 percent is due to the continuing decline in non-U.S. flag freight rates and to the fact that it now appears that U.S. flag vessels will be available to carry 50 percent of the Title I/III cargoes for the first time since fiscal year 1976.

Question. Do you believe there would be any benefit to requiring a bid system that superseded the conference rate for Title II cargoes, as is the case for shipments of military cargo?

Answer. The benefits, if any, would probably be limited, since discounts are frequently granted on Title II cargoes. Also, special rates are commonly obtained on large shipments. The use of a bid system would probably not reduce the total ocean freight cost by any appreciable amount.

Differences in operations would also limit the practicability of using a bid system. The military uses 100 percent U.S. flag vessels, moves only limited amounts of break-bulk cargoes, and one agency, the Military Sealift Command, makes booking contracts for all military cargo.

Title II cargoes, on the other hand, move on foreign flag as well as U.S. flag vessels, are extensively break-bulk and are booked by several different entities, including commercial freight forwarders. In addition, because of constantly changing requirements, projected movements of Title II cargoes are not conducive to long-term contracts.

Question. Do you believe we should set a limit on the percentage by which the U.S.-flag rate may exceed the foreign flag rate in order to be determined "fair and reasonable?"

Answer. While we are in favor of any opportunity to reduce ocean transportation costs on Public Law 480 cargoes, we do not believe, as a practicable matter, that we can take a position on setting a limit on the U.S. flag rates. This is for the reason that the Maritime Administration has the expertise and authority to determine the "maximum fair and reasonable" rates on U.S. flag vessels carrying full cargoes.

We understand that their calculations are based on reliable cost data plus allowance for a reasonable profit. Accordingly, we are guided by the rates set by the Marad.

Question. Do you sincerely believe that if the cargo preference requirement were eliminated you could prevail upon OMB to transfer the \$90 million or so now used to cover the ocean freight differential to the purchase of agricultural commodities, rather than leave it in the Treasury?

Answer. If the cargo preference requirement were eliminated, we do not believe that the USDA could prevail upon OMB to transfer the \$90 million (approximate ocean freight differential obligated in fiscal year 1981) to the purchase of agricultural commodities. However, due to the fact that commodity and OFD funds are both in the overall Public Law 480, Title I/III budget, there has been a need in fiscal year 1981, for example, to shift funds from the commodity budget to cover increased OFD costs. In 1981, the foreign flag freight market was depressed and as a result, the difference between U.S. flag rates and foreign flag rates became wider, and the amount of OFD paid by USDA was increased accordingly.

We are not suggesting that the cargo preference requirement be eliminated, but if it were, there would be no possibility of payment of OFD by USDA/CCC and, therefore, the money budgeted to buy commodities would be used solely for that purpose.

Question. You made a big point, and properly so, about the need to replace the predominantly old and inefficient bulk fleet with modern, efficient vessels. This requires, you added, favoring the newer vessels whenever possible. Recently, USDA fixed a shipment of soybean oil bound to Pakistan aboard the 1940's-built *Perryville*, despite the fact that another modern U.S.-flag vessel offered to carry the cargo at \$13 per ton less. I understand the initial request of Pakistan set a 600-foot limit on the vessel length, but that they later softened. If we allow situations like this to occur, how on earth are we going to encourage investment in modern vessels?

Answer. The *Perryville* (U.S. flag) was approved by USDA on June 1, 1982, because it was the lowest rated vessel that was responsive to the terms of the Government of Pakistan's freight invitation for bids (IFB). The freight IFB specified that vessels must not exceed 600 feet in length. The *Golden Phoenix*, a large modern U.S. flag vessel, offered to carry the cargo at a lower rate than the *Perryville*, but due to

her length of 933 feet, was considered to be non-responsive to the IFB. However, on the next freight IFB the *Golden Phoenix* was chartered by the Government of Pakistan and approved by USDA on June 28, 1982.

Question. In the last Congress I introduced legislation (S. 1461) which would have provided MarAd with general authority to determine which government programs are subject to the cargo preference laws.

Because our time was taken up with passing the Maritime Regulation Act (S. 2585), we did not have the opportunity to consider S. 1461.

Do you think this legislation is necessary, and would you support it? I note that the Administration supports our cargo preference laws.

Answer. In view of the cooperation between the Department and the Maritime Administration I do not believe such legislation is needed. Furthermore, I do not think it would be logical in view of the recognized need to hold down federal employment to require the Maritime Administration to acquire new staff with program experience which would be necessary to make such judgments.

Question. This morning we will hear a recommendation that the cost of financing U.S. vessel participation in Public Law 480 trade would more appropriately be assigned to MARAD.

Do you agree?

Answer. While sympathetic with the intent of this suggestion, i.e., to increase funds available to finance commodity exports, I do not believe it would have that result. Rather the level of funding for the differential would be provided to the Maritime Administration and the funding approved by OMB for the Department's Public Law 480 account would be reduced by the same amount. Also such a proposal would, no doubt, result in additional bureaucracy; something we all agree is not needed.

Question. Are there any programs administered by any Agency with the Department of Agriculture to which Cargo Preference does not apply?

Answer. Yes, there are five export credit promotion programs administered by FAS which cargo preference laws do not apply. These programs are as follows:

1. CCC's Export Credit Guarantee Program (GSM-102).
2. CCC's Non-Commercial Risk Assurance Program (GSM-101).
3. CCC's Export Credit Sales Program (GSM-5 Direct Credit).
4. CCC's Credit Export Sales Program for Breeding Animals (GSM-201 Direct Credit).
5. CCC's Intermediate Credit Export Sales Program for Foreign Market Development Facilities (GSM-301 Direct Credit).

By law, the cargo preference laws are specifically exempted for the GSM-201 and GSM-301 intermediate credit programs. In the case of GSM-5, which provides short-term credit of up to three years, it has been determined by the Attorney General that this is a commercial program and is exempt from cargo preference. The GSM-101 and GSM-102 programs provide guarantees for periods of up to three years and are also considered commercial programs. Under the GSM-101 and GSM-102 programs, the financing is provided by the private sector at commercial rates of interest.

Although not an on-going program, USDA did this year enter into a government-to-government arrangement with Jamaica to barter dairy products owned by the Commodity Credit Corporation (CCC) for Jamaican bauxite for the national stockpile. It is our view that the Cargo Preference Act did not apply to the dairy products exported under this transaction, since the terms were commercial in nature.

From 1950 to 1973, CCC conducted similar barter programs and exports of agricultural commodities made under these programs were not subject to the Cargo Preference Act. Although there is no legal requirement to ship the dairy products on U.S. flag vessels, we support the Administration's commitment to the U.S. Merchant Fleet. During the negotiations with representatives of the Jamaican Government, we asked that consideration be given to U.S. flag vessels wherever possible. We also contracted the freight agent for the Government of Jamaica and requested that they also consider the use of U.S. flag vessels if the rates for U.S. flag vessels were competitive. It is our understanding that the agent was successful in arranging U.S. flag vessels for all of the dairy products to be shipped.

Question. If there are any programs administered by any Agency within the Department of Agriculture to which Cargo Preference does not apply, does Maritime Administration agree?

Answer. As to whether or not MarAd agrees that the cargo preference laws should be exempted from these programs, we believe it would be more appropriate to obtain their views on this matter.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., August 23, 1982.

HON. SLADE GORTON,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: thank you for your recent letter concerning the previous administration's commitment to set up a task force to discuss with Maritime interests, the ongoing implementation of the cargo preference requirements.

Over the many years that USDA has been administering the Public Law 4801 programs, direct communications have been established with the carriers and their brokers, as well as with the organizations who represent the carriers. These direct and continuing lines of communication have contributed greatly to the mutual understanding of the responsibilities and functions of the USDA and the carriers with regard to cargo preference and the Public Law 480 programs. Additionally, we have always maintained close communications with the Maritime Administration in matters related to cargo preference. In fact, the Maritime Administration has a set procedure that provides for the various involved parties to meet and discuss any grievances that are pertinent to the administration of the cargo preference act.

Therefore, it is our belief that the formation of a task force could add very little to the communication and cooperation that now exists between the USDA, the Maritime Administration, and the Maritime industry. Accordingly, we are not in favor of setting up such a task force.

Thank you for your interest in the PL 480 programs.

Sincerely,

JOHN R. BLOCK, *Secretary.*

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., September 9, 1982.

HON. SLADE GORDON,
Chairman, Merchant Marine Subcommittee, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reference to your letter of August 6, 1982, regarding the shipment of Public Law 480 commodities to Karachi, Pakistan, aboard the U.S. flag vessel *Perryville*. Enclosed is a copy of a letter sent earlier to Senator Helms explaining the circumstances surrounding this shipment and the decision of the Department regarding the computation of ocean freight differential payments.

Your letter raises a question as to whether the owners of the *Perryville* should refund part of the freight monies that may be attributable to the return voyage because of their decision to scrap the vessel following discharge of the Public Law 480 commodities at Karachi, Pakistan.

Since the amount of ocean freight differential paid by this Department relates to the freight due a U.S. flag carrier, we have been concerned with the recent increase in the number of U.S. flag ships which were scrapped after carrying Public Law 480 cargoes. We agree that in such cases it would appear that the carrier should not be entitled to the contracted freight rate if such rate exceeds a fair and reasonable rate for a one-way voyage. In this case, however, the Government of Pakistan inserted a provision in the charter party requiring the carrier to refund \$10.29 per metric ton of the contracted freight charges "if voyage terminates at Karachi for scrapping." Since the vessel continued on from Karachi to Bangladesh, there is now a question concerning the interpretation of this refund provision.

We understand that representatives of the Maritime Administration advised your Subcommittee at a recent hearing that cargo preference requirements applied to U.S. flag vessels which were going to be scrapped.

We will keep you informed of actions taken regarding this matter.

Sincerely,

A. JAMES BARNES,
General Counsel,

Enclosure.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., August 4, 1982.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter concerning the recent approval by the Department of Agriculture (USDA) of the U.S. flag vessel *Perryville* to carry 24,000 metric tons of soybean oil to Pakistan under the Public Law 480, Title I program.

Foreign governments participating in Title I, Public Law 480, are responsible for chartering and booking vessels for the carriage of cargo purchased by them. Program regulations, however, require that the pertinent terms of all charters or bookings be submitted to the USDA for approval prior to fixture. This procedure is followed to assure compliance with the Cargo Preference Act and program regulations. As long as requirements of the regulations and the purchase authorization are met, participating governments are free to contract with any U.S. flag carrier they desire.

A major concern of the USDA, however, is the calculation of the ocean freight differential (OFD) which is paid by USDA. In order to assure that the OFD payment is kept as low as possible, irrespective of the freight rate of the U.S. flag vessel selected by the foreign government, the following provision is incorporated into all purchase authorizations:

"The ocean freight differential will be computed by the Director, OTD, FAS, on the basis of the difference between (a) the weighted average freight rate(s) of non-U.S. flag vessels offered that in his opinion could carry the total quantity of the commodity purchases . . . and (b) the lowest U.S. flag rates offered which in his opinion could carry the required U.S. flag tonnage regardless of U.S. flag vessels fixed."

The word "offered" in (a) and (b) of the above quoted provision refers only to offers which are responsive to the invitation for bid (IFB). To interpret the provision otherwise would be inconsistent with the bidding process.

The Pakistan Embassy requested USDA's approval of the *Perryville* because the vessel's offer represented the lowest responsive offer by a U.S. flag carrier. Although the *Golden Phoenix* was offered at a rate which was \$13.00 per metric ton lower than the *Perryville*, this was not a responsive offer because the vessel exceeded the length limitation of 600 feet specified in the IFB issued by the Pakistan Embassy. The USDA approved the selection by Pakistan of the *Perryville* offer and calculated the ocean freight differential by using the *Perryville*'s freight rate because it was the lowest responsive offer. We believe this was proper under the provisions of the regulations and the purchase authorization.

It should be noted that the *Golden Phoenix* was selected by Pakistan and approved by USDA on the next IFB issued by Pakistan because the vessel met additional qualifications in the IFB for vessels exceeding 600 feet.

A somewhat similar situation occurred recently in connection with the selection of the U.S. flag vessel *Jade Phoenix* which carried soybean oil to Bangladesh. The IFB issued by Bangladesh contained a vessel length limitation but, unlike the Pakistan IFB, it also permitted lightering of the cargo at destination. It was USDA's view that the Bangladesh IFB did not preclude the acceptance of a vessel which exceeded the length limitation because the cargo could be lightered at the discharge port. USDA, therefore, informed Bangladesh that the ocean freight differential would be based on the lower rated *Jade Phoenix* although the vessel exceeded the vessel length limitation. Thereafter, Bangladesh chartered the *Jade Phoenix* and the cargo was delivered at destination by a lightening vessel.

Thank you for your interest in the Public Law 480 program.

Sincerely,

JOHN R. BLOCK, Secretary.

Senator INOUE. I would like to at this point as a matter of curiosity ask this question. Do Soviet ships carry Public Law-480 cargo?

Mr. SMITH. No, sir, they do not.

Senator INOUE. Do any bloc nations carry it?

Mr. PICKETT. Last fall, Polish ships did carry title I cargo.

Mr. SMITH. Yes, we have had some Polish ships carry cargo, but no Soviet ships.

Senator INOUE. I would like to now proceed with questions for Admiral Shear. The committee, as you are aware, Admiral, is concerned with the problem of Canadian cargo diversion. We had a hearing a few weeks ago. Do you know if any government generated cargoes which are subject to the cargo preference laws are now being carried by CAST out of Montreal? Would you provide this committee with any statistics, if you have them?

Admiral SHEAR. I would be happy to do so, sir.

[The information referred to follows:]

Regarding diversions of preference cargoes originating at U.S. points and moving through Montreal, Canada, our records reflect that no such diversions are occurring. We verify that this does not occur through the receipt of ocean bills-of-lading which the sponsoring Federal agencies are providing to MarAd.

Senator INOUE. The following questions result from Senator Dixon's testimony. I think it is in line with some of the observations made by Mr. Smith. Recently, a Public Law-480 shipment of soybean oil to Pakistan was given to the high bidding U.S.-flag vessel, the *Perryville*. According to the Department of Agriculture, the additional cost was \$311,000 more in ocean freight costs than was offered by another U.S. vessel.

In the case of the *Perryville*, cargo preference was supporting a 40-year-old tramp vessel. How did this come about?

Mr. SMITH. I am going to ask Mr. Pickett, who is on our staff and manages the cargo preference aspects of it, to answer on that specific sale.

Mr. PICKETT. In connection with this freight tender, the Government of Pakistan put in their freight tender that the maximum length vessel that they could take in the Karachi Port was 600 feet. The length of the cheaper vessel here, the *Golden Phoenix*, was 933 feet. For that reason, the Government of Pakistan refused to take the larger, less expensive vessel.

Senator INOUE. It was impossible to take the larger vessel?

Mr. PICKETT. No, sir. We do not think it was impossible for them to take it, and we pursued that very diligently with them. And finally, in consultation with our office of general counsel, it was decided that their decision was the correct decision, and we did, in fact, approve the *Perryville*.

Senator INOUE. On the first title II Public Law 480 shipment that it booked to west Africa this year, the Department of Agriculture decided to use a U.S.-flag vessel at the rate of \$132 per ton rather than accepting a bid from other vessels, including the United States, whose rates ranged from \$59 to \$142 per ton. This was cited in Senator Dixon's statement.

Mr. SMITH. This is Mr. Rinn, who works on the title II side of it, and he will answer that question.

Mr. RINN. That booking was made with an American-flag carrier as the first booking of the calendar year to that geographic region. The cargo preference requirements are that American vessels must be picked first, and that was the initial calendar year booking to west Africa, and it was made on an American-flag vessel.

Senator INOUE. Was there not another U.S. vessel that bid lower than \$132 per ton?

Mr. RINN. No.

Senator INOUE. This was the lowest American bidder?

Mr. RINN. Yes, sir.

Senator INOUE. We have been advised by Senator Dixon's office that there was another American vessel that bid lower than \$132.

Mr. RINN. To my knowledge, there was not. I will certainly check that out and provide that information.

[The information referred to follows:]

No U.S.-flag vessel bid lower than the booked rate of \$132.32 per metric ton.

Senator INOUE. Mr. Smith, the problem that you noted, the use of old vessels, is of concern to all of us here. For example, the *Angelina*, after carrying a Public Law 480 cargo to Pakistan, was scrapped in Asia. It is obvious that this was the last shipment. It was ready to fall apart. And the *Perryville* was a 40-year-old tramp vessel. Do you have any suggestions as to how we can cope with that? Because I do not believe the cargo preference laws were enacted to support a fleet of old vessels.

Mr. SMITH. I wholeheartedly agree, and I believe the admiral agrees with this concept also. I really do not have any specific suggestions, and I do think that is really outside of my purview, but we certainly have been working with the Maritime Administration. My understanding is that they fully concur that the purpose of the cargo preference is to build a better and more modern merchant fleet, and that we ought to be working in that direction. Maybe the admiral would want to comment.

Senator INOUE. Admiral, do you have any views on this?

Admiral SHEAR. May I comment further?

Senator INOUE. Please do.

Admiral SHEAR. There is no question that this situation of older vessels remaining in the trade too long is a serious one. If I had the authority, which I do not, I would put a figure on the age at which vessels could compete, and I would arbitrarily assume a figure of about 25 years. If the vessels currently meet the Coast Guard requirements for in-class, in other words capable of operating in international trade in-class, they are eligible to bid for these cargoes, and many of the bids are quite high. We are coming to grips with these excess bids as best we can as we get newer, more competitive ships into the trade. We are getting in a few of such vessels at the present time, but not enough.

The real answer to this question is to move forward vigorously and promptly with the revitalized, rejuvenated, younger U.S. merchant marine of competitive vessels that are now available either in foreign shipyards or purchased in the world market at quite competitive prices. This would let us compete in the world market with vessels that are much more cost competitive because of the lower purchase price and reduced operation costs resulting from more efficient powerplants and smaller crews.

Senator INOUE. How do you propose to provide cargo for these new vessels?

Admiral SHEAR. Cargo for these new vessels?

Senator INOUE. When our Government itself—in the case of the Department of Energy—included Jones Act cargo in calculating the 50 percent U.S. carriage requirement for foreign oil imports.

Admiral SHEAR. I was specifically referring to the dry bulk trade, Senator, but my remarks also refer to the tanker trade. Of course,

these vessels must compete for preferential cargo whether they are older vessels or new or nearly new vessels. The procedure for competing for preference cargoes would continue just as it has been in the past.

Senator INOUE. What was the rationale for using foreign bottoms to carry bauxite from Jamaica?

Admiral SHEAR. That was a long and involved situation which I have been personally involved in, in great detail, with the General Services Administration. The problem there was that it was a fine powdery grain bauxite that the General Services Administration felt after thorough review had to be landed at one particular site at Gregory, Tex., due to the facilities there, the stockpile there, and due to the environmental considerations.

We did our best to find U.S. vessels which were configured and qualified to compete for that cargo. As a matter of fact, we did in fact spell out that at least 50 percent of that cargo should be carried in U.S. bottoms. After thorough review and thorough checking of the available vessels, we determined there were none which would qualify for the particular unloading characteristics at Gregory, Tex., and very reluctantly, that entire cargo went to foreign flag vessels.

Senator INOUE. Were not bid conditions set by the GSA which made it almost impossible for U.S. bottoms to bid?

Admiral SHEAR. I am not saying it was impossible, Senator Inoue. The timing was tight. We reviewed the situation thoroughly with the GSA. I do not think it will ever happen again. I think probably we could have had some earlier reviews and discussions, but with regard to this particular shipment of bauxite, the 1.6 million tons involved, and the type of ore it was, I have not been able to find any U.S. vessel which could take that cargo at the present time.

Senator INOUE. If we are to encourage the maintenance of a viable merchant marine, do you not think that the Government of the United States should at least lean over slightly in favor of U.S. bottoms and go out of its way to make it possible for our ships to carry cargo?

Admiral SHEAR. I concur wholeheartedly, and I am vigorously pursuing that objective myself.

Senator INOUE. Do you think the GSA was following the spirit of the policy of this administration and other administrations?

Admiral SHEAR. Well, I cannot before this committee say the GSA was not following the guidance of the administration. This was a situation involving the purchase of a large shipment from Jamaica for the strategic reserve. In hindsight there were some things that I think we could have done better. However, finding ships that qualified for that particular shipment, I must reluctantly say, would be and still is very difficult with our inventory of vessels at the present time.

Senator INOUE. Is it not true that the owner of the foreign used to carry the Jamaican bauxite vessels had entered into discussions with GSA 1 month before U.S. vessels were advised of this shipment?

Admiral SHEAR. There were some discussions earlier. The exact timing I do not have at my fingertips. I will provide that for the record.

[The information referred to, follows:]

In response to Senator Inouye's question, GSA has informed us that during the planning stage for this operation when Reynolds Metals Company identified the fact that their vessels were foreign bottoms, GSA's Counsel advised the Office of Stockpile Management of the requirements of the Cargo Preference Act. GSA then proceeded to attempt to implement those requirements by soliciting for U.S. participation.

Senator INOUE. Do you think that was fair to our vessels? Do you not think it is leaning slightly to the foreign vessels?

Admiral SHEAR. I would have to agree with that, sir.

Senator INOUE. What should we do with GSA?

Admiral SHEAR. We have already had a set of very vigorous hearings on this subject. I think that my personal relationship with GSA and the experience of this particular case will insure that we do not have continued difficulties in the future.

Senator INOUE. Do you think they got the message?

Admiral SHEAR. They got the message.

Senator INOUE. This morning, one of the witnesses will be a representative from the Apex Marine Corp. His testimony will maintain that MarAd thwarted congressional intent by prohibiting most subsidized carriers from carrying preference cargo, and by placing uneconomic conditions on the only two subsidized ships permitted in the cargo preference trade. Are you familiar with that testimony?

Admiral SHEAR. I am not familiar with the testimony. I am generally familiar with the subject.

Senator INOUE. Do you have any comments?

Admiral SHEAR. As I recall the circumstances there, I think it was a payback situation with regard to ODS, was it not? It was a question of equating the subsidized operators with the unsubsidized operators, and I think under the circumstances we made the only fair and realistic decision that we could.

Senator INOUE. Under existing law, the Postal Service contracts are for the international carriage of surface mail with American and foreign carriers at negotiated rates. American carriers, I presume, are generally preferred, but foreign flags do carry a substantial portion. In 1977, the House passed H.R. 7700, which would have required the Postal Service to contract with U.S. carriers unless no American carrier served the route. I think most countries, either by law or commercial practice, reserve the carriage of their mail to their national flag lines. Do you think we should adopt that policy, that we carry 100 percent of our mail unless no Americans are available?

Admiral SHEAR. I am not familiar with the 1977 act.

Senator INOUE. It is not a law. It is a bill that passed the House and died there. Do you support that bill, which would have required 100-percent carriage unless Americans were not available?

Admiral SHEAR. I think that is a realistic and reasonable position.

Senator INOUE. Who is carrying our surface mail in the Atlantic, from here to and from our NATO countries?

Admiral SHEAR. I do not have that detail at my fingertips. I will be happy to look it up for you, sir and to provide that for the record.

Senator INOUE. I believe a Polish vessel carries some; does it not?

Admiral SHEAR. I do not have that detail, but I will be happy to provide it.

[The information referred to follows:]

In response to Senator INOUE's request for a list of the shipping companies carrying the mail between the United States and our NATO allies, we consulted the U.S. Postal Service who has identified the following carriers:

Company	Between the U.S. and—
Atlantic Container Line	France, Ireland, Norway, Sweden, and Denmark
Cross Ocean Shipping Co	Italy
Dart	Belgium
Dart Orient Services, Inc	Germany
Sea-Land	Spain

Senator INOUE. There is often discussion to the effect that cargo preference involves additional cost to the Government. Mr. Smith has alluded to that. Mr. Vaughan has also alluded to that. Do you know how many agencies have actually accumulated and compiled data on the increased cost of the preference requirement?

Admiral SHEAR. With regard to specific agencies?

Senator INOUE. Yes. The 1978 GAO report found that very few agencies had actually accumulated and compiled data on the increased cost.

Admiral SHEAR. I think I can provide that. I do not have it at my fingertips.

[The information referred to follows:]

Senator INOUE requested a list of the Federal agencies which accumulated and compiled data on the increased cost of ocean shipping due to the application of the cargo preference law.

Currently only the Department of Agriculture compiles such data for its Public Law 480 Title I program. None of the other Federal agencies have any method or system for accurately recording the cost differentials, if, in fact, any occur in their programs.

Senator INOUE. Is it not true that in all cases except Public Law 480, the cost of cargo preference is not borne by the U.S. Government?

Admiral SHEAR. That is essentially correct. In most cases it is borne by the recipient country.

Senator INOUE. So at least in the case of Public Law 480, the argument that cargo preference involves additional cost does not fly.

Admiral SHEAR. With the exception of the Department of Agriculture. Now, there are some long-term low-interest rate loans involving various conditions, and in some cases the actual shipping costs come out of these loans of the recipient country.

Senator INOUE. Is it not true that Government-generated liner cargo are generally carried at competitive rates by U.S. carriers and should not normally involve additional cost to the shipper?

Admiral SHEAR. That is essentially correct. In the case of military cargoes, they are competitively bid. In the case of other cargoes, up to 50 percent, of course, they are carried in liner vessels, in conferences where the cost of the cargo levels are essentially the same cargo prices.

Senator INOUE. So the argument that cargo preference involves horrendous cost to the Government is not a major problem; is it?

Admiral SHEAR. It has to be weighed. It has to be weighed. It is not that much of a problem certainly in the liner trade.

Senator INOUE. I would like to ask Mr. Vaughan just as a matter of clarification, is it your testimony that one of the main reasons the DOE has not purchased more foreign oil for delivery aboard U.S. tankers is because U.S. vessels are often not available either because we do not have enough tankers or the ones we have are poorly positioned when the opportunity to purchase foreign oil exists?

Mr. VAUGHAN. It is my testimony, Senator, in this regard, that often U.S. vessels are not available on a timely basis. We, if you recall, emphasize that we are currently buying on the world spot oil market. Most of the oil on the spot market that is available to us are distressed cargoes. In other words, it has been purchased by someone, usually shipped by someone, and then something has happened to the transaction, and that shipper is trying to sell his cargo, and very often that is the type of oil that is available in that spot market, and offered in response to those solicitations.

It is in that sense that often the oil is already at sea—and we cannot use American vessels.

Senator INOUE. Does MarAd advise you on the current position and the availability of all U.S. tankers?

Mr. VAUGHAN. We have tried to work closely with MarAd through the Military Sealift Command to keep track of these vessels. As I indicated, one of our techniques of trying to improve performance under the act is to try to keep our shippers aware of where American vessels are.

Senator INOUE. I have one last question for the Department of Agriculture. I believe your agency took the position that the preference laws did not apply to the sale of surplus butter to New Zealand. Is that correct?

Mr. SMITH. That is correct.

Senator INOUE. Do you not consider this Government-generated cargo?

Mr. SMITH. No. In the case of the sale to New Zealand, the determination was made that these were made at commercial rates. The price we sold the butter to them was a commercial transaction. According to the legal determination made by the USDA General Counsel, when that determination is made, cargo preference does not apply to CCC sales.

Senator INOUE. Do commercial transactions also include 180-day interest-free payment provisions?

Mr. SMITH. In this case, that interest provision was considered part of the sale and price that we received for it. That was taken into account, so it was considered part of the transaction.

Senator INOUE. Is that what we usually do in commercial transactions, 6-month interest-free?

Mr. SMITH. In the case of selling CCC butter on the world market, it is not what you would call a normal transaction. As you know, we have a very high domestic price support for dairy products and for milk. As a result of this, the cost at which the CCC acquires this butter is considerably higher than the world price. There was a large subsidy involved in the sale which raised some rather serious questions of trade policy and other reasons. The agreement was negotiated with New Zealand in a manner that we think took into account these considerations. The sale was made at commercial prices, and is considered a commercial sale by the Department.

I might add that we did, to the extent possible, ask the New Zealanders to use United States shipping, because there is a conference over there. My understanding is that substantial quantities of it have moved on U.S. bottoms. I do not think I have the exact numbers here, but there was a substantial quantity that did move.

Senator INOUE. Mr. Chairman, I have many other questions that I would like to submit to the three panel members for their consideration and response.

Senator GORTON [presiding]. Is it the basic decision of the Department of Agriculture that agricultural commodities should be subsidized but the merchant marine should not be?

Mr. SMITH. In the case of Public Law 480, which is basically our food aid program, and the thrust of my testimony, cargo preference clearly applies, and we have fully implemented that. The only issue we raise there is the cost that is involved. In essence, we find that we are moving less commodities and particularly wheat into international markets as a result of having to divert funds to cargo preference rather than moving these commodities into world markets.

In the case of other commodities that move from the Commodity Credit Corporation, the law is very clear that if it is a commercial sale, cargo preference does not apply. We stand by that decision.

Senator GORTON. Your written statement says that the cost of meeting cargo preference requirements for Public Law 480 cargoes has increased dramatically. Has there been any significant change in the course of the decade in the percentage of the Public Law 480 program?

Mr. SMITH. For example, in 1980, about 10 percent of our funding for title I was devoted to cargo preference. It has gone up to about 13 or 14 percent this year.

Senator GORTON. What was it over the last decade? What was it 10 years ago?

Mr. SMITH. Well, the percentage, say, 10 years ago was substantially less for two reasons, the main one being that we had more money for Public Law 480. The differential rates were less. What we are seeing right now is two problems. One is due to the lower rates for charters because of the generally poor economic situation generally for shipping. The differential is a lot higher. That is causing an additional cost and the total amount of Public Law 480 is decreasing because of the budget considerations. The combination is causing a higher share of Public Law 480 to go for cargo preference.

Senator GORTON. Do you believe there would be any benefit in requiring a bid system which superseded the conference rate for title II cargoes as is the case with military cargoes?

Mr. SMITH. In the case of title II, I think we find that U.S. flags are generally competitive because of the type of cargo that is moving, mainly in the conference rates. There are times when we have bulk. For example, some grain moving on bulk cargoes, where we do have to pay the high differential. I think the main problem really relates to title I, where it is bulk cargo moving, and we have the differential.

Senator GORTON. Admiral Shear, I guess I do have a chance to ask you a couple of questions. We have already heard testimony describing incidents in which the rate differential for ships under U.S. flag was in the range of 200 to 300 percent. How can we denominate these rates to be reasonable?

Admiral SHEAR. I have the responsibility with my staff to determine a fair and reasonable rate and establish guidelines. This we do for each case. Most of the bids at present are coming in below the guideline level. Now, with the world shipping slump as it exists at present, the foreign flag bids have dropped very significantly, some 50 percent, thereabouts, in the last year. So that expands the differential between the two. We are doing our best to come up with realistic rates. We do this based on the cost, the vessel operating costs, the crew costs, and we put in a modest figure for profit, and thereby determine the guideline rates.

The competitiveness which is now showing up for the newer vessels and the older vessels is a very healthy thing. The bids are continuing to come in below guideline rates, and with some of the newer vessels considerably below what they have been in a long time.

Senator GORTON. Do you feel that the provision in the MarAd bill reported by this committee which would allow foreign-built or flagged vessels to be brought under our flag and immediately eligible to carry preference cargoes will accelerate that competition and bring down rates?

Admiral SHEAR. I think it will accelerate it and I wholeheartedly endorse it. As you will recall, Mr. Chairman, the first items which we promulgated with respect to the President's ongoing maritime promotional programs include such a provision.

Senator GORTON. Senator Boschwitz has proposed that all costs of paying the freight differential for the cargo preference programs be appropriated in the MarAd budget. Would you react to the feasibility or desirability of that change?

Admiral SHEAR. I would have very mixed emotions about that. I am not at all sure that bringing a third party into the situation would be realistic or economical or efficient, such as the Maritime Administration between the Department of Agriculture and the shippers. I really think it ought to remain where it is, where it has been operating quite efficiently. On the other hand, you could make an argument that by putting such funding in the Department of Transportation or the Maritime Administration, that you would eliminate some of the criticism in the Department of Agriculture for the amount of cost they have to utilize U.S.-flag vessels for shipping.

Senator GORTON. On another subject, why should we not require the purchasing government to pay for the cargo preference differential under Public Law 480 as we do in the AID program?

Admiral SHEAR. The AID program is somewhat different. The actual low-cost loans including the shipping charges. In the case of the Public Law 480 agricultural products, that is not the case. In most cases these cargoes are going to relatively impoverished nations. This would really be an excess cost that they should not be burdened with.

Senator GORTON. Thank you very much. We appreciate the testimony of each of you.

We will now move on to a panel consisting of Mr. Amoss, Mr. Crowley, and Mr. Aldridge.

Glancing at your written statement, I see that Mr. Amoss' statement is relatively short already, so I will particularly ask the other two witnesses to attempt to summarize their statements so we will have time for questions.

STATEMENTS OF W. J. AMOSS, JR., PRESIDENT AND CHIEF EXECUTIVE OFFICER, LYKES BROS. STEAMSHIP CO., INC.; JAMES T. CROWLEY, SENIOR VICE PRESIDENT, MOORE McCORMACK LINES, INC.; AND DONALD G. ALDRIDGE, SR., SENIOR VICE PRESIDENT, ATLANTIC DIVISION, DELTA STEAMSHIP LINES, INC.

Mr. AMOSS. Good morning, Senator Gorton, Senator Inouye, staff. I am very pleased to be with you this morning. My name is W. James Amoss, Jr. I am the president and chief executive officer of Lykes Bros. Steamship Co. of New Orleans, La.

Lykes Bros. is a dry cargo owner and operator of 46 American-flag vessels engaged in the foreign commerce of the United States on 5 trade routes from U.S. gulf ports, 2 trade routes from U.S. west coast ports, and 1 trade route from the U.S. Great Lakes.

Lykes operates more vessels under the American flag than any other liner company. Our seagoing staff numbers about 3,400 officers and unlicensed professional sailors. Our shoreside staff is about 1,000 persons in 12 offices in the United States and 7 offices located overseas. Lykes is now in its 82nd year of continuous steamship operation. Our record of service to the Nation in war and in national emergency beginning with World War I through Vietnam and in countless international crises involving America's national interest is one that we in the company and this Nation can take deep pride in. We were there in all those times of the past and we are here today because we carry the commerce of the United States to and from the many countries on our eight trade routes.

I cite the bare bones of these times of critical service because it is apparent that many of the highly educated men and women in Government tend to discount the idea that America has a real need for a citizen-manned and operated merchant marine. Those who recall the peril of our country in 1941 and 1942, and indeed, deep into 1943, will remember the crying need for Americans ships and crews to transport vital supplies overseas and to our allies.

We have managed to get through subsequent wars on the strength of the active merchant marine and that reserve of ships that was a legacy of our frantic World War II buildup. Today we have a merchant fleet of approximately 200 active dry cargo vessels. They provide the ultimate base of logistic support for any American forces that may be called upon to deploy overseas in protection of areas of national interest. The manpower to surge-active the approximately 150 usable ships in our Nation's reserve fleet must come from the seagoing and shoreside professionals that are now in our active merchant marine. Mr. Chairman, I see little recognition of the sealift task that is implicit in our policies around the world by many in Government today. Paradoxically, one hears on many sides those who urge the abandonment of programs such as cargo preference that help maintain the existing merchant marine. In the Lykes trade routes, several of our lines operate in areas where virtually the entire commerce is Government-support cargoes. Little, if any, return cargoes exist in those areas. I am speaking of the trades to North Africa, the eastern Mediterranean, the east coast of Africa on the Indian Ocean, Southwest Asia, and sectors of South and Central America.

Perhaps you are aware that our Government-financed cargoes are carried by nations barely friendly with the United States, nations who consistently oppose U.S. interests when put to a vote in the United Nations. Indeed, there are instances where Government cargoes are delivered to nonaligned nations by vessels of Yugoslavia, a Communist nation, and Poland, in strange contrast to the purpose of the programs themselves. The developed nations in Europe and Japan are in areas where Government cargoes do not move in any quantities with the exception of military shipments for our forces committed to the defense of those countries. In much of the remainder of the world which is termed developing, the Government-supported cargo is the major element in the trade. Competition for Americans is with state-owned shipping lines to a large extent. Frequently cargo control laws reserve even commercial business for the national line and the only way that American carriers can participate is through confrontations supported by our Government that help to modify those pervasive laws. This country should attach a requirement to the receipt of Government-impelled cargoes that commits every recipient country to a policy allowing American-flag vessels the same free access in their commerce that their vessels can enjoy and exploit in ours.

Mr. Chairman, the policy of shipping at least 50 percent of U.S. Government-impelled cargoes in American-flag vessels at reasonable rates which are related to the cost of operation of American-flag vessels should be reaffirmed and clarified to include those cargoes that are created by cash grants and transfers. Such a policy will maintain the vessels and the manpower that give credibility and reality to our commitments overseas.

I recall, Mr. Chairman, not perfectly, perhaps, but in essence, the statement of a renowned member of this committee, Senator Russell Long of Louisiana, who many years ago in a similar hearing said in that simple and direct way of his that gets at the essence of a problem, "If we are going to supply the world with the products of this country and provide them the means with which to buy it,

the very least we can demand is the right to carry half of it off in our own ships."

Thank you, sir.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

LYKES BROS. STEAMSHIP CO., INC.,
New Orleans, La., July 26, 1982.

Hon. SLADE GORTON,
U.S. Senate, Washington, D.C. 20510

DEAR SENATOR GORTON: I received your additional questions following my testimony on Cargo Preference while away on a business trip, and I submit below your question and my answer for the record:

Question 1. You suggest that as a condition for receiving government-impelled cargoes, the recipient country should commit itself to allow open access of U.S. vessels in their commerce. How would such a commitment be obtained and enforced diplomatically? Do you suggest it applies in scope to all of that nation's privately moving foreign commerce?

Answer. The merits to the application of Cargo Preference Laws should, I believe, be related to timely service and reasonable rates. Timely service might be defined, for example, as requiring that American-flag carriers meet shippers' requirements for realistic shipment and delivery dates within a tolerance of 15 days. Anything less than this would make it possible for shippers that "manage" shipments to book away from American carriers. Reasonable rates could be rates equal to or less than the existing liner conference rates applicable at the time of shipment. A further check could be to require Marad or FMC certification that this requirement has been met. Finally, and to the point that some shipments may be absurdly small and burdensome to administer, any carrier should be interested in booking small shipments less than container lots, etc. and if unable to offer service, the shipper would have free hand in non-U.S.-flag routing. If the Federal Government provides funds for projects, it should be extremely simple to notify the recipient of those funds and through that recipient all contractors working under those funds that there is a requirement for shipment of at least 50 percent on U.S.-flag vessels. Allowing shipments to arbitrarily escape our Preference Laws because of reluctance to administer has created the kind of growing erosion that prevails today. In essence, I think the cure is not significantly burdensome and uncured will continue the erosion of supporting our merchant marine to a degree with federally funded exports and imports in our own commerce.

Question 2. Where are the limits of your suggestion that U.S. vessels have the right to carry 50 percent of all cargoes created by cash grants? If a university receiving Federal funds for a campus building project needed to import the elevators or some other component or equipment, for example, would this be subject to the 50 percent U.S. vessel requirement?

Answer. Answer is incorporated above in number 1.

Question 3. Because of the fact that only one U.S.-flag vessel—one owned by Lykes—serves the Great Lakes and is incapable of carrying 50 percent of the liner-type preference cargo originating near the Great Lakes, the Executive Director of the Seaway Port Authority of Duluth, Minnesota has stated:

"Cargo preference results in a commodity, financed by the government, whether it be tractors, grains, tools, or whatever, manufactured in or near a city on the Great Lakes, being required to be shipped 500 to 1,000 miles more to a tidewater port so that it could be lifted on a U.S. vessel at a substantially higher rate than if booked from the Lakes."

Do you think this situation is justifiable? As the one Great Lakes operator, how should we induce more U.S. flag participation on the Lakes?

Answer. On a minor point, several U.S.-flag vessels owned by Lykes, not one, serve Great Lakes ports during the approximately 7½ month season open to navigation. With regard to the statement of the Executive Director of the Seaway Port Authority in Duluth, it is my observation that Great Lakes ocean rates are generally as high or higher than those available from other coastal areas. Clearly the cost of operating a vessel to and from the Great Lakes is substantially higher than operating from the coastal areas and the seasonal dislocations of those vessels provide an additional burden. We have found in the attempt to attract regular use of our

liner service by manufacturers that use of the Lakes on an intermittent basis because of the seasonal shutdown loses attraction and impacts their domestic transport costs because their volume to other seaboards is reduced. This is particularly true in the automobile and component manufacturing sectors, who pass up opportunities to obtain attractive ocean rates during part of the year because of the overall impact on their operation from coastal ports. I do not think government-financed cargoes should be booked at a higher rate on seacoast-based services than that prevailing for shipment from Great Lakes. I believe that when American service is not available from the Lakes the American-flag portion should be available to a seacoast service provided total transportation costs, including inland costs and ocean costs, are substantially equal to that available on the Great Lakes on foreign-flag liner vessels. Inducing more U.S.-flag participants in the Lakes is a function of the available market. The record will show that liner services, foreign as well as American, have seriously declined over the past decade and the number of foreign lines that have ceased service from the Lakes precisely because the market is much higher than any comparable figures for seacoast areas. The limitation of vessel size based upon the width of the locks and the shallow draft of the locks plus the seasonal nature of the service burdens the Great Lakes operator to an extraordinary degree and few liner operators, foreign or American, can be expected to invest in new vessels around these limitations.

Question 4. Do all or most of the preference cargoes Lykes carries move at a conference agreed rate?

Answer. All packaged freight reference cargoes move at conference rates unless Lykes is a non-conference member, in which case the rates would be below conference. Bulk cargoes and open-rated cargoes, such as large lots of bagged foodstuffs, usually move at bid rates somewhat below the average conference level. This would be accomplished through having a conference rate for shipments up to say 500 tons and open rates for shipments moving in larger lots.

Question 5. Is there any way to obtain return cargoes from some of the developing regions to which you now deliver preference cargoes?

Answer. If there are any cargoes moving in the commerce of the United States from developing regions, the American carriers generally carry a substantial amount, in some cases the majority, of such shipments. For example, coffee from East Africa; lumber, logs and rubber from Southeast Asia; and tin, fishmeal, coffee and handicrafts from Chile and Peru.

Question 6. Why should we pay ODS for an empty return voyage?

Answer. Since the wages of the crew pertain to the voyage out and the voyage home and ballast home is a result of either lack of cargo available or uneconomic utilization of the vessel for such cargo as may be available resulting in more ODS than a ballast voyage, it seems clear that the operator should not be penalized because conditions in the trade make a ballast voyage home the best operating decision, indeed, under the circumstances, the most economical application of ODS in view of the maximum sailing limitations imposed on operators. We have always had some percentage of oneway trades in shipping, especially to non-developed world areas.

Question 7. Would you have any objection to a requirement that all preference cargoes be assigned to the lowest bidder, rather than necessarily moving at the conference rate, as is now done with military cargoes?

Answer. Aside from the extreme difficulty of bidding for all the odd shipments that occur of every size and description on every trade route, it would add great bureaucracy to the system and cost to the government and the operator. In terms of administration, we would not object to the bidding principle. As a matter of fact, most large lot preference cargoes are put out for bid by USDA or those foreign agencies and their brokers that administer the purchasing and transport of preference cargoes.

Question 8. You will note that: "In the Lykes trade routes several of our lines operate in areas where virtually the entire commerce is government-supported cargoes." Can you provide for the Committee a chart for those routes in which Lykes vessels carry any preference cargoes, indicating the volume, value, and percentage of total volume and value carried that is preference cargo?

Answer. We do carry government-supported cargoes on all routes on which we operate, namely, Gulf/Northern Europe, Gulf/Mediterranean, Gulf/South and East Africa, Gulf/West Coast of South America, Gulf/Far East, Great Lakes/Mediterranean, and the West Coast/Far East. We do not, however, maintain statistical information on government-supported cargo carriage nor do we maintain any records as to the value of cargoes carried. We are endeavoring to obtain total market informa-

tion of this type from other sources and if successful will transmit that information to you when it becomes available.

I trust this answers your interrogatories adequately. If not, I will be pleased to elaborate should this be required.

Yours very truly,

W. J. AMOSS, Jr.

LYKES BROS. STEAMSHIP CO., INC.,
New Orleans, La., June 28, 1982.

Hon. SLADE GORTON,
Chairman, Merchant Marine Subcommittee,
U.S. Senate, Washington, D.C.

DEAR SENATOR GORTON: I appreciated the opportunity to testify before you at the hearings on cargo preference on June 16 and I thank you, Senator Inouye, and your staff for allowing me the opportunity to present my views before your Committee.

Today I received the enclosed letter from Mr. William G. Cronin, Vice President—Operations of Tilston Roberts Corporation, which I would like to submit to you and possibly have it included in the hearing record. Mr. Cronin's company, Tilston Roberts, represents foreign-flag steamship operators in their activities in United States trades. It is, therefore, extremely gratifying to have received, entirely unsolicited, his views on the necessity for maintaining an American Merchant Marine nourished with a fair share of government preference cargoes.

Yours sincerely,

W. J. AMOSS, Jr.

Enclosure.

TILSTON ROBERTS CORP.,
New York City, N.Y., June 25, 1982.

LYKES BROS. STEAMSHIP CO., INC.,
Lykes Center, New Orleans, La.
(Attention Mr. W. J. Amoss, Jr., President).

DEAR SIR: I have read with interest your statement on government cargo preference during a Senate Merchant Marine Subcommittee hearing on June 16, 1982, as reported in the June 21, 1982 issue of Congressional Information Bureau.

I believe your comments are precise, direct and very valid and I trust will receive consideration from the Subcommittee. A strong, healthy American flag Merchant Marine with the assistance of the government cargo preference program is very vital. I also have no doubt that many of the trading partners of the United States share this view.

With kindest regards.

Sincerely,

WILLIAM G. CRONIN,
Vice-President—Operations.

COUNCIL OF AMERICAN-FLAG SHIP OPERATORS,
Washington, D.C., August 3, 1982.

Hon. DANIEL K. INOUE,
Ranking Minority Member, Subcommittee on the Merchant Marine, Russell Senate
Office Building, Washington, D.C.

DEAR SENATOR INOUE: This is in response to your question to Messrs. Amoss and Crowley regarding the desirability of your reintroducing a Bill (S. 1461) which you introduced during the last Congress.

Because of the importance of cargo preference to U.S. liner operators, Messrs. Amoss and Crowley asked for the views of all CASO member companies after reviewing S. 1461. They unanimously support reintroduction of this legislation.

At the time it was enacted, Public Law 83-664 encompassed all the Federal programs which generated cargo. However, forms of Federal aid programs have continued to evolve while the statute has remained unchanged. In addition, some Federal agencies have found devices by which they could circumvent the application of Public Law 83-664 to their programs. As early as 1962, the Senate's Committee on Commerce in its report (No. 2286) on "Implementation of the Cargo Preference Laws by the Administrative Departments and Agencies" found that "All too often . . . at least several of the Administrative departments (have attempted) . . . to evade the cargo preference (sic) whenever the opportunity offered." More recently,

question has arisen whether the provisions of Sec. 901(b) apply to government grant programs (e.g., the Urban Mass Transportation Act of 1964 authorizing the Urban Mass Transportation Administration of the Department of Transportation to provide financial assistance to several state and local transit bodies for the purchase of urban transit equipment), subcontractors of Department of Defense prime contractors and government cash transfer to foreign nations programs (e.g., AID grants to Israel and Egypt for the unrestricted purchases of items). Ocean cargoes generated by such funds and programs are properly subject to the cargo preference requirements of Section 9091(b). Your Bill would give a single government official clear authority to ensure that Sec. 901(b) is properly applied in these cases.

In order to avoid any misunderstanding, we would suggest that you emphasize that this Bill does not restrict the existing scope of Sec. 901 but is intended to give the Secretary of Transportation enforcement authority to accomplish the intent of the existing law—to cover all Federal Programs generating cargo.

With best wishes.

Yours sincerely,

ALBERT E. MAY,
Executive Vice President.

Senator GORTON. Mr. Crowley.

Mr. CROWLEY. Good morning, Mr. Chairman and gentlemen. I appreciate the chance to be here.

While my written testimony is fairly lengthy, I will confine my remarks to making two points which I think are important for consideration in these hearings.

Moore McCormack Lines, commonly known as Mooremack, is the only U.S.-flag carrier operating in essential trade routes 1 and 15A. The company receives operating differential subsidy for wages of crew and officers and some insurance costs. It receives no subsidy for maintenance and repairs or hull insurance.

Trade route 1 is the ports of the U.S. Atlantic coast to and from the ports of Brazil, Uruguay, Argentina, and Paraguay. Trade route 15A, the ports of the U.S. Atlantic coast to and from the ports of the Republic of South Africa, Madagascar, Mozambique, Tanzania, Kenya, and Somalia.

We feel confident that in these hearings much will be revealed concerning the differing characteristics and transport needs of the several categories of preference cargoes and the differing influence or impact these cargoes have on the fortunes of U.S.-flag carriers operating in the separate trades in which these cargoes move. Our testimony will deal only with the circumstances of preference cargoes prevailing in the routes of trade in which Mooremack operates and record Mooremack's experience in attending to their carriage.

Mooremack's carriage of preference cargoes is generally limited to two types:

First, those sometimes referred to as giveaways and which result from grants or relief gifts procured and shipped under the administrative control of the Agency for International Development and/or the Department of Agriculture's Stabilization and Conservation Service. The commodities are procured and shipped under USDA's Public Law 480 titles I and II program, and generally are farm-related products.

Second, Eximbank cargoes or cargoes which in one way or another are recipients of financial assistance from the Export-Import Bank of the United States in the form of loans and/or guarantees. These exports result usually from successful and competitive bidding by U.S. manufacturing exporters for participation in imports of capital and industrial goods by the host countries in South

America and east Africa. Commodities involved are typically high valued capital goods and equipment destined for major construction and industrial development projects in the importing country.

At this point we would respectfully offer comments we feel to be important to any examination of preference cargoes, their transport needs and costs, and their relationship to the U.S.-flag merchant marine.

The first comment is to the effect that few generalities can be useful in judging the workings and effects of preference cargoes throughout the U.S.-flag merchant marine. The presence of the cargoes and the existence of the underlying laws have different effects, require different operational approaches, and have different levels of and reasons of importance to the carriers.

Second, we would urge that in any effort to establish an assurance of getting the most out of the Government's ocean transportation dollar, care must be taken to recognize the distinctions of cargo characteristics and service needs existing as between the cargoes moving under the several preference programs.

Enforcing a narrow standard of lowest landed cost at overseas port of entry, if interpreted as an absolute of law, could cause great mischief by frustrating the intended purpose of the programs involved. In the case of Eximbank cargoes comprised of sophisticated materials of high value, sold and/or exported through a highly competitive commercial process, the level of port-to-port ocean rates is many times of minor importance. Regular, reliable, and continuing scheduling, in combination with the carriers' traffic expertise and network of foreign and domestic service and operational facilities is most often the critical need. Properly accommodating this need cannot be supported by rates tied to a mandated lowest landed cost policy.

In the case of the giveaway type cargoes, it is generally true that they have little or no commercial export value, nor is their export dependent on commercial competitive factors. However, these cargoes do compete with famine and hunger and sickness, and what is vital to their importance is that they arrive in good condition and in a timely manner.

This would favor use of carrier-owned vessels which in the ordinary course of prudent management the owners maintain to the highest standards of physical condition and which are deployed on regular, reliable, and direct schedules. It brings into question the use of chartered foreign-flag tramp vessels which are acquired by operators for transitory periods and at the lowest possible cost and deployed on tramp schedules which best serve the opportunistic profit needs of the operators rather than the service and transport needs of the cargoes.

We would urge that in attempting to assure the best possible costs to the Government, our legislators give consideration to some thoughts expressed in a paper recently published by the Shipper Advisor's Council of the National Maritime Council. This advisor group is comprised of the transportation and traffic managers of some of the U.S. largest industrial corporations; in aggregate they account for up to 70 percent of the volumes and values of the Nation's export and import liner trades. They can be fairly judged to be qualified experts in the shipment of our oceanborne foreign com-

merce, and its critical needs of transportation and cost. It is their position that U.S. cargo interests must have the right to select the carriers they judge to be best suited to transport particular cargoes, at the lowest reasonable cost for the services needed and furnished.

Thank you for the opportunity, gentlemen. That ends my oral testimony.

[The statement of Mr. Crowley follows:]

STATEMENT OF JAMES T. CROWLEY, SENIOR VICE PRESIDENT, MOORE MCCORMACK LINES, INC.

Moore McCormack Lines, Inc. (Mooremack), is the only U.S. flag carrier operating in Essential Trade Routes 1 and 15A. The Company receives Operating Differential Subsidy for wages of crew and officers and some insurance cost (P & I). It receives no subsidy aid for maintenance and repairs or hull insurance.

ESSENTIAL TRADE ROUTE NO. 1 (T. R. NO. 1)

Ports of the U.S. Atlantic Coast to/from ports of Brazil, Uruguay, Argentina and Paraguay.

ESSENTIAL TRADE ROUTE NO. 15A (T. R. NO. 15A)

Ports of the U.S. Atlantic Coast to/from ports of the Republic of South Africa, Madagascar, Mozambique, Tanzania, Kenya, and Somalia with service via these ports to the countries of Burundi, Rwanda, Uganda, Lesotho, Zambia, Botswana, Zimbabwe and Ma-Lawi.

We feel confident that in these hearings much will be revealed concerning the differing characteristics, and transport needs, of the several categories of preference cargoes, and the differing influence or impact these cargoes have on the fortunes of U.S. flag carriers operating in the separate trades in which these cargoes move. Our testimony will deal only with the circumstances of preference cargoes prevailing in the two routes of trade in which Mooremack operates, and record Mooremack's experience in attending to their carriage.

Mooremack's carriage of preference cargoes is generally limited to two types:

(A) those sometimes referred to as "give aways", and which result from grants or relief gifts, procured and shipped under the administrative control of the Agency for International Development (A. I. D.) and/or the U.S. Department of Agriculture's (USDA) Agricultural Stabilization and Conservation Service (A. S. C. S.) acting as the agent of the Commodity Credit Corporation (CCC) in administering its agricultural surplus program. The commodities are procured and shipped under U. S. D. A.'s Public Law 480—Title I Program. Commodities involved are typically; wheat flour, cornmeal, corn-soya, milk, bulgur, soybean oil, bagged fertilizer and other farm related products.

(B) Eximbank cargoes, or cargoes which in one way or another are recipients of financial assistance from the Export-Import Bank of the United States in the form of loans and/or guarantees. These exports result usually from successful and competitive bidding by U.S. manufacturing exporters for participation in imports of capital and industrial goods by the host countries in South America and East Africa. Commodities involved are typically high valued capital goods and equipment destined for major construction and industrial development projects in the importing country. At this point we would respectfully offer comments we feel to be important to any examination of preference cargoes, their transport needs and costs, and their relationship to the U.S. flag merchant marine. The first comment is to the effect that few generalities can be useful in judging the workings and effects of preference cargoes throughout the U.S. flag merchant marine in total. The presence of the cargoes, and the existence of the underlying laws have different effects, require different operational approaches and have different levels of and reasons of importance to carriers, as they operate in separate routes, and combinations of routes of trade, most of which have often unique requirements to be accommodated. Secondly, we would urge that in any effort to establish an assurance of getting the most out of the Government's ocean transportation dollar, care must be taken to recognize the distinctions of cargo characteristics and service needs existing, as between the cargoes moving under the several preference programs. Enforcing a narrow standard of "lowest landed cost at overseas port of entry", if interpreted as an absolute of law,

could cause great mischief by frustrating the intended purpose of the programs involved. In the case of Eximbank cargoes, comprised of sophisticated materials of high value, sold and/or exported through a highly competitive commercial process, the level of port to port ocean rates is many times of minor importance. Regular, reliable and continuing scheduling, in combination with the carrier's traffic expertise and network of foreign and domestic service and operational facilities, is most often the critical need. Accommodating this need cannot be supported by rates tied to a mandated lowest landed cost policy.

In the case of the "give away" type cargoes, it is generally true that they have little or no commercial export value, nor is their export dependent on commercial competitive factors. However, these cargoes do compete with famine, and hunger, and sickness, and what is vital to their importance is that they arrive in good condition and in a timely manner. This need would favor use of carrier owned vessels, which in the ordinary course of prudent management the owners maintain to the highest standards of physical condition, and which are deployed on regular, reliable and direct schedules. It brings into question the use of chartered foreign flag tramp vessels, which are acquired by operators for transitory periods and at the lowest possible cost, and deployed on tramp schedules which best serve the opportunistic profit needs of the operators, rather than the service and transport needs of the cargoes.

We would urge that in attempting to assure the best possible costs to the Government, our legislators give consideration to some thoughts expressed in a paper recently published by the Shipper Advisor's Council of the National Maritime Council, and dealing with the current debate regarding the UNCTAD Code of Conduct. This advisor group is comprised of the transportation and traffic managers of some of the United States' largest industrial corporations; in aggregate they account for up to 70 percent of the volume and values of the Nation's export and import liner trade. They can be fairly judged to be qualified experts in the shipment of our oceanborne foreign commerce, and its critical needs in transport and cost. It is their position that U.S. cargo interests must have the right to select the carriers they judge to be best suited to transport particular cargoes, at the lowest reasonable cost for the services needed and furnished.

Mooremack carriage of Public Law 480 Program cargoes is confined to those moving to the Nations of East Africa in Trade Route 15A. There are several circumstances which affect the impact this "preference cargo" has in this particular route of trade:

(a) As can be seen from the nature of the commodities, their U.S. inland points of origin (generally in the Mid and South West) do not have inland rates favoring delivery to U.S. East Coast loading ports.

(b) In the application of the preference laws to shipment of these cargoes, the 50 percent reservation to be observed by the Agencies involved makes no provision for 50 percent U.S. flag carriage on a geographical basis. The Agencies are only compelled to use U.S. flag for 50 percent of the volumes to general areas overseas, in this instance say the Continent of Africa, and there is no requirement to insure percentages via gateway ports of the separate U.S. coastal ranges.

(c) The circumstances of U.S. origin points and favorable inland transport costs results in the predominant volumes being exported via ports of the U.S. Gulf and West Coast, and the U.S. Great Lakes ports in season. It is always the case that the required 50 percent to U.S. flag reservation is easily met without factoring in the relatively smaller volumes shipped via U.S. East Coast ports.

Since July 1981, Mooremack has carried approximately 13,000 metric tons of Public Law 480—Title II cargo to various destinations in East Africa, via East Coast ports. Approximately 75 percent of this volume originated in the towns/cities of Danville, Paris and Chicago, Illinois, the remainder was mainly from Crete, Nebraska. In all instances Mooremack attracted the cargo to its carriage through offering the USDA Agency, and the Voluntary Relief Agencies involved, a package of transport services at a delivered or landed costs less than that available from any other sources, including chartered foreign flag tramps, and accomplished the delivery on the most expeditious schedule available to them.

Over the past several years Mooremack has carried AID sponsored cargoes of bagged fertilizer, via ports of the U.S. South Atlantic range, destined for Zambia via ports of the Republic of South Africa and Mozambique. The volumes have amounted to 15,000 tons each year, shipped in lots of 5,000 tons. Generally the same circumstances vis-a-vis "preference carriage" described above prevailed as did the same underlying reason for Mooremack's participation in the carriage.

In both sets of circumstances described the commodities moved in regularly scheduled liner vessels, at the lowest landed cost available. In fact the ocean portion of

the rate per ton was, and is, significantly below the average ocean rate per ton experienced by Mooremack from its total carriage to the area.

Mooremack participates in the carriage of Eximbank cargoes in both its routes of trades; those exported to Latin America (Trade Route 1), constitute the major portion of the volumes of Eximbank cargoes carried by Mooremack. In describing in some detail the rate negotiating process and other considerations of service, we attempt to establish that these exports are indeed carried under competitive rate and service conditions, and always move at the lowest reasonable costs commensurate with accommodating their requirements.

TRADE ROUTE 1—PREFERENCE CARGO (EXIMBANK)

1. Characteristics of "Eximbank Cargoes"

In general cargoes benefiting from Eximbank financing are similar in all respects to cargoes moving to any major capital construction project undertaken in the host countries of South America, some of which involve Eximbank financing, some of which do not. A relatively small portion of the volumes of both is comprised of single shipments or multiple shipments over a short span of time. In the majority of instances, cargoes involved with Eximbank assistance are generated when the U.S. manufacturing exporter(s) succeed in participating in major construction projects through bidding competitively against counterpart manufacturing exporters in the various industrial nations. In the process of bidding competitively the favorable financing of Eximbank may or may not be used.

To illustrate, the following listing is a partial one of the major projects active and/or in the bid stage in Argentina and Brazil:

- (a) Oil well drilling rigs, machinery and equipment. (Argentina.)
- (b) Machinery, equipment and parts for petroleum activities i.e., exploration, transmission, refining and distribution. (Argentina.)
- (c) Machinery and equipment for construction of the Alicura Dam Project. (Argentina.)
- (d) Construction of the Tucuru Dam. (Brazil.)
- (e) Construction of the Belo Horizonte Freeway (Brazil.)
- (f) Construction of the Bom Jardim Railroad Tunnel. (Brazil.)

In all cases the Conference and ocean carriers, cooperating with the exporters, have granted special rate and service considerations designed to help the exporter in bidding successfully, and adequately meeting the exporters responsibilities under the terms of awards they obtain.

The cargoes moving to any of these projects include large volumes of varied high value equipment and supplies, they involve high inventory and pipe line inventory costs, the success of the project undertaken usually requires the phased and sequential movement of the cargoes from a point or points of origin in the United States to the overseas project site. A basic requirement is for regular, dependable and adequate ocean transport services over predetermined time periods which can span several years.

2. The rate making process—project cargoes including "Eximbank Cargoes"

The Liner carriers regularly operating in Trade Route 1 (all members of the Inter-American Freight Conference—IAFC) share the common goal with the U.S. exporters active in the trade of insuring the maximum possible participation by the U.S. exporters in all phases of the host countries' import market. Large project type movements are of special importance to both because of the high volumes and values of cargoes they generate on a continuing basis. To allow the carriers the flexibility needed to respond to and accommodate the needs of U.S. manufacturing exporters, the IAFC Tariff provides for special rate and service treatment for major project cargoes through the use of project rate agreements.

In preparing to bid for participation in overseas projects, the exporter comes together with the carriers, furnishing them the details of cargo types and volumes to be moved, port ranges involved, time period anticipated for the completion of shipments and any other details pertinent to the ocean transportation required. Together, the exporter and carriers negotiate ocean rates and charges for carriage of the commodities to be moved which are acceptable to both. The special project rate is then filed as part of the Conference Tariff to be effective over the period of the bidding process. When the exporter's bid results in the award of the job, the terms of the agreement are extended for the agreed upon time period. Generally, the project agreement terms bind the carriers to furnishing adequate, regular and dependable capacities at predetermined costs and require the exporter(s) to ship the projected volumes in Conference carrier vessels.

It is customary that in preparing the "bids", the major manufacturers/exporters in the trade look to Moore McCormack Lines as their "lead" in constructing their rate and service proposals to the Conference, in a manner that will best satisfy them and find likely acceptance by the Conference membership. It is usually the case that they also look to Mooremack for invaluable information relative to overseas costs and operational data beyond the discharge point, which affect discharge, inland movement, storage, assembly points and ultimate site delivery.

3. Benefit to U.S. flag from Eximbank (preference) cargoes

In Trade Route 1, Government to Government Maritime Agreements between Brazil and United States and Argentina and the United States grant equal, competitive access to National Flag Carriers of the importing and exporting Nations in the carriage of each countries preference cargoes.

Lacking any showing or charge of official or unofficial discrimination against vessels of the United States, rules and administrative procedures governing carriage of Eximbank financed cargoes require the granting of general waivers, allowing up to 50 percent carriage by vessels of the host Nations. In consequence of the Government to Government Agreements, proceeds of the Eximbank loans may be used to pay ocean freights for carriage in Brazilian and Argentine flag vessels.

The circumstance of Eximbank financed exports being preference cargo, and mandated by Public Resolution 17 for exclusive carriage in U.S. flag vessels, has been a strong and effective tool for use by U.S. Maritime and State Department authorities in protecting U.S. flag interests from discriminatory actions, and in assuring them the opportunity to compete effectively for carriage of all volumes moving in the trade. Without this tool as an underlying base for the governmental agreements, there would be little hope for the U.S. flag carrier to avoid the adverse economic consequences of National laws and policies of Brazil and Argentina, designed to encourage and support their National flag merchant marines.

The actual quantifiable benefit to the U.S. flag carrier accrues from the increased level of U.S. exports Eximbank financing successfully supports. The benefit and effect is the same as occurs when economic conditions in the importing countries, and between them and the United States, favor the import by them of U.S. goods and services; circumstances which benefit equally all the Liner carriers operating regularly in the trade.

TRADE ROUTE 15A—EXIMBANK CARGOES

The circumstances of the movement of Eximbank financed cargoes detailed in our remarks concerning Trade Route 1 can be equally applied to Trade Route 15A. Eximbank cargoes move to several of the African Nations with the exception of the Republic of South Africa. The amount and frequency of the loans and the volumes of exports they foster are much smaller than those same factors in Trade Route 1. However, while the rate negotiation process leading to bid proposals of U.S. manufacturing exporters are similar to those described in Trade Route 1, lacking the existence of National flag fleets of the countries of destination, Mooremack, as the U.S. flag operator providing regular service, plays a greater role in assisting the concerned U.S. exporters.

Given the proscribed nature of the cargoes, it is customary for other Conference members to defer to Mooremack's acceptance of special rates and service conditions which accommodate the competitive needs of the U.S. exporter. Beyond that, Mooremack has been of major assistance in responding to some unusual exporter needs, resulting from circumstance often unique to the geographic areas involved. We cite some recent cases, which involved Eximbank loans:

1. *Exporter*—A major U.S. Manufacturer of trucks. *Cargo*—100 large dump truck units. *Destination*—Zambia via the port of Dar es Salaam, Tanzania.

The cargo moved in two equal shipments at rates and conditions of a project rate agreement. During the shipping period, the exporter experienced difficulties in collecting funds and required storage in the port of discharge, Dar es Salaam. Although these arrangements are normally in the province of the shipper/consignee, Mooremack made all necessary arrangements needed by the exporter.

2. *Shipper*—A major U.S. Manufacturer of textile machinery. *Cargo*—Several million dollars' worth of textile machinery for an Eximbank financed project. *Destination*—Tanzanian port of Dar es Salaam. *Problem*—Shipment was to move under rates established in a project rate agreement *three years earlier*. Shipment was delayed during that period and resulting high inventory costs and other unexpected inflationary effects cut severely into the expected profit of the exporter.

Following an appeal by the exporter, Mooremack acted to have the already favorable Conference rate reduced, and carried the cargo at a lump sum rate \$30,000

below customary rates, and also below the quotation of the only foreign flag carrier offering space in its non-conference vessel.

3. *Shipper*—A major Midwest machinery manufacturer. *Cargo*—Eximbank financed—two (2) large (603 long tons each) Power Mining Shovels. *Destination*—Zambia, via port of Dar es Salaam, Tanzania. *Situation*—Foreign flag tramp vessel offered carriage via a Great Lakes port at total transport costs less than Conference project rate plus inland transport to East Coast port.

To attract the cargo for carriage by Mooremack, it again made use of its innovative intermodal tariff and carried the cargo at a total cost to the exporter lower than that available from a foreign flag tramp operator. Of greater importance the Mooremack action guaranteed faster delivery to destination. Since the shipments finally went forward in January when the Great Lakes were closed to navigation, the cargo interests saved considerable inventory, storage and credit costs.

These examples are given as a means of emphasizing Mooremack's primary reliance on competing effectively even for those cargoes generally perceived as being reserved for its exclusive carriage. In these cases and many others like them, Mooremack relied on effective assistance to the exporters and better service and pricing, to assure its carriage of the "preference" cargoes involved.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question 1. Some of the regions you serve must be served by very few vessels; your cargo outbound is predominantly preference cargo, and you carry little on the return voyage. As I understand it, cargoes you carry that are generated by P.L. 480 Title II or by Ex-Im Bank are generally carried at conference rates. Consequently, wouldn't you end up carrying most or all of this even without the 50% requirement?

Answer. Mooremack provides regular liner services in the two areas defined by essential trade routes.

No. 1—U.S. East Coast ports to/from ports of Brazil, Uruguay, Argentina and Paraguay.

No. 15A—U.S. East Coast ports to/from ports of the Republic of South Africa, Mozambique, Tanzania, Kenya and Somalia.

Trade route No. 1 competition—six national flag lines—(Brazil, Argentina, Uruguay and Paraguay)—two cross traders—(Norwegian, Dutch interests).

In total this competition offers approximately 162 sailings per year, or on the average, a sailing every two and a half days.

Trade Route No. 15A competition—two lines controlled by South African interests, a British owned carrier and the Greek owned Hellenic Lines, together offer approximately 134 sailings per year.

Additionally, six to eight carriers, regularly operating in the U.S. East Coast to North Europe and Mediterranean areas, offer non conference capacity via transshipment at various European and Mediterranean ports. Two non conference carriers complete directly for midwest origin cargoes via Canadian ports.

In the South American service there is little or no Public Law 480, Title II cargo. Cargo in which Mooremack, and the national flag carriers of Brazil, Argentina and Paraguay have preferential rights of carriage, is a mixture of cargoes reserved for national flag carriage by the Laws of these countries and the United States. We know of no existing record which quantifies the volumes of "preference cargoes" impelled by the separate national laws; the cargoes involved are considered as commercial in nature, and there is no ground for assuming the U.S. preference cargoes (Ex Im Bank) predominate.

As to homebound carriage, in 1981 Mooremack carried outbound to South America 171,000 long tons and carried 281,000 long tons on homebound voyages. During the first four months of 1982 Mooremack's carriage was 39,000 long tons outbound and 76,000 long tons homebound.

In the African service we have rather a mixed bag. The most important sector, from a revenue aspect, is exports carried to the Republic of South Africa, none are U.S. Government impelled. To the poorer nations the volumes of U.S. exports are necessarily largely generated by Title II programs and/or Ex Im Bank assistance. Additionally we are beginning to experience small movements of military cargoes to Kenya and Somalia.

Title II cargoes to the landlocked destinations of Lesotho, Botswana and Zambia are most conveniently routed through ports of South Africa, and do add to revenues

realized from South African imports. In the Northern sector, they consist of direct shipments to Somalia, Kenya and Tanzania and cargoes to Uganda, Rwanda and Burundi via ports of Tanzania and Kenya. To the extent that we record or recollect, the volumes Mooremack carried of Title II type cargoes in 1981 equalled about 20 percent of the long tons of exports carried. Because of the nature of other preference type cargoes, i.e., Ex Im Bank, we have no adequate means of recognizing them as such. Our assumption that cargoes to the underdeveloped nations, other than Title II, are largely government impelled, is based on the fairly desperate economic circumstances of the countries involved.

As to homebound carriage, in 1981 Mooremack carried outbound 128,000 long tons and homebound 99,000 long tons. During the first four months of 1982 the carriage was 33,400 outbound and 17,000 long tons homebound.

In responding it is necessary to treat these two types of preference cargoes separately, and bear in mind that Mooremack's carriage of Public Law 480 cargoes is confined to its African service. The response vis-a-vis Ex Im Bank cargoes will be incorporated in our answer to Question 2.

As we explained in our testimony, the Public Law 480 cargoes carried by Mooremack are not influenced to any great extent by the cargo preference laws, rather, Mooremack's carriage results from its success in meeting and beating competition from foreign flag, chartered tramps. Mooremack's carriage is based on its providing the lowest landed cost to the cargo at port of discharge.

In the circumstances described in the testimony, the action taken by Mooremack to assure its participation in carriage at the lowest costs from point of origin to overseas port of destination, results in an actual port to port ocean rates considerably below the tariff rate and the average rate per ton experienced by Mooremack to the same foreign destinations. Mooremack's competition for these cargoes, with points of origin in Illinois, and as far beyond as Crete, Nebraska, is generally the foreign flag tramp type operation of Amarda Line, loading in Great Lakes ports. Mooremack relies on the use of its independent inter-modal tariff to construct an inland point of origin to overseas destination port through rate, lower than the foreign flag rate offered for all water carriage by the foreign flag carrier. Since this through-rate requires Mooremack to pay the line haul costs to port of loading, and includes ocean rate and surcharges, the inland rate charges directly erode the ocean rate portion.

Given these circumstances, Mooremack carries these cargoes precisely because of its competitive actions and the 50 percent requirement has no practical effect.

Question 2. I was intrigued by your discussion of the cooperation between exporter and carrier in fixing a rate for shipments related to a project, before reflecting that rate in the conference tariff. This ability to reflect a rate on a particular shipment in the conference tariff tends to destroy the image of the conference tariff as the rate foreign-flag vessels would charge doesn't it? That is, if the foreign-flag carrier has no interest, the U.S. carriers could inflate the rate and make it appear that no differential exists—does that occur?

Answer. In our testimony we explained what we feel to be the principle value of the underlying cargo preference requirement, i.e., Public Resolution 17, to the U.S. flag carriers operating in the trades between the United States and Brazil and Argentina. The value of P. R. 17 to U.S. flag in Trade Route 15A (South and East Africa) has an entirely different aspect. Trade Route 15A is not "bilateralized" and the nations of destination for Ex Im Bank cargoes have no national flag merchant fleets. Thus the legal requirement that these government impelled cargoes be carried exclusively in U.S. flag vessels directly effects the routing of these cargoes via U.S. flag, and Mooremack is the sole U.S. flag operating over the route.

Clearly the existence of a legislated mandate reserving these cargoes is of vital importance to Mooremack. Knowing this, we also know and are guided by the conviction that the basic purpose of the Ex Im Bank is to support and finance exports of the United States, and not necessarily to benefit the U.S. flag merchant marine. As a policy matter Mooremack does not exploit its mandated right to carriage whenever to do so interferes with the Bank supported exports. To the contrary, we make every effort to support the competitive position of involved U.S. manufacturing exporters during the bid process, and to cooperate with them in performing under the terms of the bids they obtain.

Precisely because Ex Im Bank cargoes are in no substantial manner different from the other and customary cargoes exported, we detailed in our testimony some of the rate setting processes that take place between Shipping Conferences and U.S. exporters, as they act together to reach the commonly shared goal of incentivating and supporting the flow of U.S. exports. Even in circumstances (Trade Route 15A) where Mooremack has a mandated right to carriage, our testimony attempts to il-

illustrate that for the long term, we feel the strategy of following the usual and prudent practice of acting to increase export volumes in our routes of trade, is the most practical and beneficial.

It has not been our experience that Conference manipulation of tariff rates and services have occurred in connection with shipments of preference cargoes. It has been our experience that the preference cargoes in our routes of trade are carried at or below the established tariff rates for similar commodities.

Question 3. You mentioned that you often are able to grant "special rate and service considerations designed to help the exporter in bidding successfully and adequately meeting the exporter's responsibilities under the terms of awards they obtain." If the carriers have this sort of flexibility, couldn't they secure a large portion of this cargo without the 50 percent guarantee?

Answer. Under the existing circumstances it is somewhat difficult to respond to the question, "If the carriers have this sort of flexibility, couldn't they secure a large portion of this cargo without the 50 percent guarantee?" It may serve the purpose to state that in both of Mooremack's routes of trade it is the only U.S. flag carrier. In T. R. No. 1, it acts together with the other regular carriers and U.S. exporters to support a continuing volume of exports over the route, the flexibility the carriers use together in establishing appropriate rates and adequacy of transportation services, does act to support exports in which they can all participate on a competitive basis. In this route, where bilateral agreements largely mask the effects of preference cargoes, Mooremack is the major volume carrier.

In T. R. 15A, and as discussed above, the preference influence is of little or no effect in assuring Mooremack's carriage of Public Law 480, Title II cargoes. As to the carriage of Ex Im Bank cargoes, there is some danger that absent the applicability of P. R. 17, the most attractive portions of those moving could be lost to sporadic tramp-type or independent foreign flag operators seeking "targets of opportunity". In such case, while Mooremack's continuing and dependable services would necessarily attract certain of the Ex Im Bank type cargoes, a significant portion might be lost; we cannot now judge the loss potential.

Senator GORTON. Thank you. Mr. Aldridge, we will move to you.

Mr. ALDRIDGE. Good morning, Mr. Chairman and members of the committee. My name is Donald Aldridge. I am a senior vice president of Delta Steamship Lines. I appreciate the opportunity to appear here this morning and present Delta's general views regarding our cargo preference programs for Government-impelled cargoes.

Delta Steamship Lines operates a diversified fleet of 24 vessels in the liner trades between the United States and South America and West Africa. We have also, for the past 2 years, operated one of our vessels in the tramp trade between the United States and the Mediterranean, primarily to Israel.

We at Delta consider these cargoes essential to American-flag operators. In some of the trades serviced by American fleet vessels, preference cargoes are of minor importance, while in others they are crucial to continuance of the service itself. To begin with, I would like to outline briefly the significance of the cargo preference programs to Delta Line.

We participate in the movement of agricultural products under titles I, II, and III of Public Law 480, in the grain trade to Israel administered by the Agency for International Development, and in various Export-Import Bank financed cargoes reserved to U.S.-flag under the provisions of Public Resolution 17. The importance of these preference programs to our three divisions is quite varied. In our trades to South America, which run from all three coasts of the United States, our carriage of preference cargoes is rather modest compared to our commercial cargoes. Our carriage of preference agricultural products on these routes has constituted less than 5 percent of total revenues during 1980 and 1981, with car-

riage on individual trade routes varying between zero and 18 percent of revenues.

In our trade from the U.S. Gulf to West Africa, the picture is entirely different. During 1980, carriage of P.L. 480 constituted 54 percent of the revenue, and in 1981 67 percent of revenue. There is no question that in the absence of the preference program, we would close down our service to West Africa.

Finally, we have operated a vessel for about 2 years as a tramp vessel in the grain trade to Israel. While we expect to integrate this vessel back into our regularly scheduled trade at some point, in the absence of the preference program, it is likely that this vessel would have been laid up during this period.

Some more general observations can be drawn from Delta's experience with these programs. First, on certain trade routes such as Africa, the preference program is a decisive factor in the continuance of a U.S.-flag service. In these kinds of trades, preference bottom cargoes have historically provided a revenue base on which U.S. flag carriers can build to penetrate difficult commercial markets. We are presently implementing a long-term strategy to create an intermodal service between the United States and West Africa. This effort should lessen our dependence on preference programs and provide important transportation technology transfer to the countries we serve in Africa.

At present, however, the trade is characterized by tremendous overcapacity resulting from dumping of excess foreign flag-tonnage in the U.S. open market. This has led to rebating on the part of some foreign-flag carriers competing for commercial liner cargoes and pricing by foreign-flag bulk operators that rarely covers operating costs, a strategy which these operators find preferable to laying up their vessels.

The preference program makes it economically possible for us to operate our service in this kind of environment. Hence the preference program is a critical element in meeting the longstanding American policy of maintaining American-flag presence on all of our essential trade routes.

We have a maritime program which encourages and in fact requires a stable, long-term commitment to our trades by American shipping companies which service both the long-term commercial and national security interests of the United States. Implicit in such a policy is the assumption that owners will generate sufficient revenue to recover capital costs and replace and modernize capital equipment. Alternatively, we can encourage the kind of short-term dumping of foreign-flag tonnage and marginal pricing which presently characterizes the trade between the United States and West Africa. However, we cannot have both.

I hesitate to respond to the criticism we often hear about cargo preference, that we would have more dollars for foreign aid if these programs were abolished. We would also have more dollars for foreign aid if our military reserve programs were abolished. There is a price for the readiness in the commercial and geopolitical advantages which a merchant marine provides. Preference programs are simply a small part of that price. This is not to say that they should not be more effectively integrated into the total framework of our new maritime policy as it emerges.

The real question that should be answered is do we want and do we need an American-flag merchant marine or do we not? In recognition of the increasing probability that the United States may need to project force into remote parts of the world without direct support from our allies, the Pentagon has recently established the Rapid Deployment Force concept. To provide the initial complement of equipment and supplies, the administration has committed initially to a program of 20 dedicated support vessels. The acquisition of these vessels will cost over \$3 billion, and annual operation and maintenance costs approach \$300 million per year. However, the Rapid Deployment Force will have no staying power if we lack the second and far deeper line of defense which our merchant marine has always provided.

It is useful to place this into historical context. In 1953, 16 percent of our total sealift assets were committed to support the Korean conflict. In 1968, at the height of the Vietnam sealift, over 500 vessels were used, representing over 40 percent of our dwindling sealift capacity at that time.

Commitment of the Rapid Deployment Force as envisioned by the Pentagon today to an area such as the Arabian Gulf would, by reliable estimates, require a continuous commitment of about 350 cargo ships, or over 80 percent of the total remaining sealift assets, including the Military Sealift Command Fleet, the Reserve Fleet, and all commercial vessels flying the U.S. flag; 140 of the ships on which we would have to rely in such an emergency are World War II vintage ships in the National Defense Reserve Fleet.

Particularly sobering is the fact that the British mobilized more support vessels in the first 2 weeks of the Falklands crisis than we have in our Ready Reserve Fleet. The bald fact is that the United States has virtually no surge capacity left in the sealift area.

It is interesting to note as we sit here this morning that in South America there are shippers and consignees being fined up to 100 percent of the value of their cargo for their failure to route commercial—not government cargoes—via their own national flag carriers. Placed in this context, we strongly believe that the U.S. Government has cargo on which it can control the routing and preference must be given to the American-flag. Do we want an American-flag merchant marine or do we not?

Given the reality of the markets in which Americans must compete today, a significant part of the answer is in the hands of the U.S. Government.

Thank you.

[The statement follows:]

STATEMENT OF DONALD ALDRIDGE, SENIOR VICE PRESIDENT, DELTA STEAMSHIP LINES, INC.

Good morning, Mr. Chairman and Members of the Committee. My name is Donald Aldridge. I am a Senior Vice President of Delta Steamship Lines. I appreciate the opportunity to appear here this morning and present Delta's general views regarding our cargo preference programs for government-impelled cargoes.

Delta Steamship Lines operates a diversified fleet of 24 vessels in the liner trades between the United States and South America and West Africa. We have also, for the past two years, operated one of our vessels in the tramp preference trade between the United States and the Mediterranean, primarily Israel.

We at Delta consider these cargoes essential to American flag operators. In some of the trades serviced by American fleet vessels, preference cargoes are of minor im-

portance, while in others, they are critical to continuance of the service itself. To begin with, I would like to outline briefly the significance of the cargo preference programs to Delta. We participate in the movement of agricultural products under Titles I, II, and III of PL 480, in the grain trade to Israel administered by the Agency for International Development and in various Export-Import Bank financed cargoes reserved to U.S. flag under the provisions of Public Resolution 17. The importance of these preference programs to our three Divisions is quite varied. In our trades to South America, which run from all three coasts of the United States, our carriage of preference cargoes is rather modest compared to our commercial cargoes. Our carriage of preference agricultural products on these routes has constituted less than 5 percent of total revenue during 1980 and 1981, with carriage on individual trade routes varying between zero and 18 percent of revenues. In our trade from the U.S. Gulf to West Africa, the picture is entirely different. During 1980, carriage of Public Law 480 contributed 54 percent by revenue and in 1981, 67 percent of revenue. There is no question that in the absence of the preference program, we would close down our service to West Africa. Finally, we have operated a vessel for about two years as a tramp vessel in the grain trade to Israel. While we expect to integrate this vessel back into our regularly scheduled trade at some point, in the absence of the preference program, it is likely that this vessel would have been laid up during this period.

Some more general observations can be drawn from Delta's experience with these programs. First, on certain routes, such as our African service, the preference program is a decisive factor in the continuance of a U.S. flag service. In these kinds of trades, preference bottom cargoes have historically provided a revenue base on which U.S. flag carriers can build to penetrate difficult commercial markets. We are presently implementing a long term strategy to create an intermodal service between the United States and West Africa. This effort should lessen our dependence on preference programs and provide important transportation technology transfer to the countries we serve in Africa. At present, however, the trade is characterized by tremendous overcapacity, resulting from dumping of excess foreign flag tonnage in this open U.S. market. This has led to rampant rebating on the part of foreign flag carriers competing for commercial liner cargoes, and pricing by foreign flag bulk operators that barely covers operating costs, a strategy which these operators find preferable to laying up their vessels. The preference programs make it economically possible for us to operate our service in this kind of environment. Hence, the preference program is a critical element in meeting long standing American maritime policy of maintaining American flag presence on all of our essential trade routes.

We can have a maritime program which encourages and in fact requires a stable, long term commitment to our trades by American shipping companies which service both the long term commercial and national security interests of the United States. Implicit in such a policy is the assumption that owners will generate sufficient revenue to recover capital costs and replace and modernize capital equipment. Alternatively, we can encourage the kind of short term dumping of foreign flag tonnage and marginal pricing which presently characterizes the trade between the United States and West Africa. However, we can't have both.

Another frequent criticism of the preference programs one hears is that they have not resulted in new American flag tonnage. This criticism is generally focused on the maintenance of overaged bulk carriers by the Title I and III preference programs. But look at this from the owners' viewpoint. The preference market is small. Title I and III movements for the current fiscal year total less than five million tons, as compared to a commercial United States bulk trade in excess of 300 million tons. It is a market continually subject to political attack and the vagaries of annual foreign aid appropriations. No serious investor could possibly make a twenty year ship investment for such a market alone. The failure there is not a failure of the preference program *per se*, but a failure to integrate the preference program properly into a total U.S. maritime strategy. It is also important to put this criticism in proper context. There are presently about ten overage bulk carriers participating in the preference programs. On the other hand, most of our fleet of about 200 international trading liner vessels carry some preference cargoes as an importance complement to their commercial services. For this reason, we urge the Committee to make no changes in the preference program except in the broader context of a complete review and overhaul of our maritime promotional programs.

I hesitate to even respond to the final criticism we often hear about cargo preference—that we would have more dollars for foreign aid if these programs were abolished. We would also have more dollars for foreign aid if our military reserve programs were abolished. There is a price for the readiness and the commercial and

geopolitical advantages which a Merchant Marine provides. Preference programs are simply a small part of that price. This is not to say that they should not be more effectively integrated into the total framework of our new maritime policy as it emerges.

The real question that should be answered is, do we want and do we need an American flag Merchant Marine or don't we. In recognition of the increasing probability that the United States may need to project force into remote parts of the world without direct support from our allies, the Pentagon has recently established the Rapid Deployment Force concept. To provide the initial complement of equipment and supplies the Administration has committed initially to a program of twenty dedicated support vessels. The acquisition of these vessels will cost over \$3 billion and annual operation and maintenance costs approach \$300 million per year. However, the Rapid Deployment Force will have no staying power if we lack the second and far deeper line of defense which our Merchant Marine has always provided.

It is useful to place this in historical context. In 1953, 16 percent of our total sealift assets were committed to support the Korean conflict. In 1968, at the height of our Viet Nam sealift, over 500 vessels were used, representing over 40 percent of our dwindling sealift capacity at that time. Commitment of the Rapid Deployment Force as envisioned by the Pentagon today to an area such as the Arabian Gulf would, be reliable estimates, require a continuous commitment of about 350 cargo ships, or over 80 percent of our total remaining sealift assets, including the Military Sealift Command fleet, the Reserve Fleet, and all commercial vessels flying the U.S. flag. 140 of the ships on which we would have to rely in such an emergency are World War II vintage ships in the National Defense Reserve Fleet. Particularly sobering is the fact that the British mobilized more support vessels in the first two weeks of the Falklands crisis than we have in our Ready Reserve Fleet. The bald fact is that the United States has virtually no surge capacity left in the sealift area.

In closing, let me simply note the fact that we hope you will focus on in considering both our existing preference programs and other cargo initiatives which might be taken as part of our new maritime program. Several of the countries which Delta serves in South America are today fining shippers and consignees up to 100 percent of the value of the cargo for failure to route commercial cargoes via their own national flag carriers. Placed in this context, we strongly believe that where the United States Government has cargo on which it can control the routing, preference must be given to the American flag. Do we want an American flag Merchant Marine, or don't we? Given the reality of the markets in which Americans must compete today, a significant part of the answer is in the hands of the U.S. Government.

Thank you.

Senator GORTON. Thank you.

My first question will be for any or all of you. Would you have objection to a requirement that preference cargoes be assigned to the lowest bidder as with military cargo, and as opposed to necessarily moving at the conference rate? Mr. Crowley?

Mr. CROWLEY. Mr. Chairman, as I tried to point out in my oral testimony and in the written testimony, the bid process does not necessarily serve the purpose of the program, let us say the Eximbank program. It is entirely a commercial transaction, unlike the Public Law 480 cargoes. I think if it were applied over all preference cargo programs indiscriminately, at least in the Eximbank area it could be extremely harmful both to the carriers and to the cargo interests themselves.

Senator GORTON. Mr. Aldridge.

Mr. ALDRIDGE. Senator, with all due respect to Senator Dixon and Mr. Smith, I detected a contradiction in their statements this morning when they said that what they really wanted was the lowest landed cost, and at the same time they do not want to support these old, beat-up vessels that sometimes do not get there and other times get delayed, operated by people who do not maintain the vessels as we do.

At the same time, we heard statements that overall it has been found that the conference tonnage of the American flag liners are reasonable in their tonnage. So to me there seems a conflict there, that you cannot have the lowest landed price unless you support that type of operation. And that is contrary, in my view, to the policy of the Government.

Senator GORTON. Is there any way to obtain return cargoes from some of the development regions to which you now deliver preference cargoes and from which you usually return empty?

Mr. ALDRIDGE. There is very little coming back from Africa, except for coffee, and most of that is diverted into Europe for storage before it comes here. In South America, I think that is again a one-way trade, with the exception of some cargoes that require reefer space we participate in because we have a specialized ship.

Senator GORTON. Mr. Amoss, a specific question for you. Apparently about 5 percent of the total U.S. liner revenue comes from Public Law 480. How much of your company's revenues derive from Public Law 480?

Mr. AMOSS. That differs trade route by trade route, and I could not give you a figure that I would feel reliable about off the top of my head. Some of our trade routes have approximately 50 percent of their cargo, which is the maximum that we are supposed as a subsidized carrier to be allowed to carry without abating the subsidy.

There is kind of a contradiction in that. We are subsidized to be able to be in the conference and quote rates with the direct competition of foreign flags that are our liner competitors and fellow conference members, and yet we cannot go beyond, not just 50 percent of the movement, but 50 percent of what we carry in our vessels, in a trade that may be 80-percent Government-impelled.

I would say overall, with a company that has trade routes like Lykes, the figure is probably on the order of 20 to 25 percent in the overall. That means that some routes are virtually nonpreference.

Senator GORTON. Could you in some reasonable time provide the committee a chart for those routes that you carry preference cargo, show us the volume percentage of which is preference cargo on each of those routes?

Mr. AMOSS. Yes, indeed, I would be glad to.

Senator GORTON. Senator Inouye, I will defer to you.

Senator INOUE. Mr. Amoss, in your testimony you cited statistics as to the number of ships we have sailing and also in reserve. What would be the effect of the repeal of the cargo preference law on the American merchant marine? I ask this because there are some who are advocating repeal.

Mr. AMOSS. In my view a repeal of the cargo preference law would eliminate about half of the active merchant marine, and in terms of number of ships one can postulate that as roughly about 100 to 115 ships that literally would be, I think, out of competition.

Beyond that—and I like to stress this, because we talk about ships, and we talk about old ships, and we really ought to think of the American merchant marine in terms of its manpower. One of the most precious ingredients of the merchant marine is the trained manpower. If we do not have that manpower that exists in the reserve numbers it does because of vacations and because of

changes in crew sizes and that sort of thing, we would not be able to man not only the ships in the reserve fleet that we may one day want to call out rapidly, but you would not even have the base it provides for the civil service mariners that always come out of the merchant marine, with virtually few exceptions, and are now in the civil service.

This is the nourishing tree of the whole manpower of the merchant marine for every purpose we need, and we ought not to merely think of it, Senator, in terms of ships alone, but in terms of manpower, including the shoreside professionals, because, giving all of these assets into the hands of people who really do not know how to efficiently use them would be a terrible event if we had to marshall all of these things for the national interest.

Senator INOUE. Do you agree that the merchant marine should be part of the defensive arm of the United States?

Mr. AMOSS. Absolutely. I think that for many years it was not looked upon in this way, even as it was being used in this way, in Korea and Vietnam, where the merchant marine carried 90 percent or above 90 percent of the total logistics supply for our forces there; and beyond that, also participated in a major fashion in support of the economy of that country, which was vital to our military position then.

We simply must regard the Merchant Marine as an arm of Defense and I believe the people in the Defense Department today do. There is a new awareness over there that is gratifying with regard to the American merchant marine as essential to defense.

Senator INOUE. What percentage of our cargo is now being carried by the merchant marine?

Mr. AMOSS. Total overall, if we could include the entire commerce of the United States, it would be about 3 percent, maybe even as low as two point something or 3.5. That of course reflects that we have virtually no bulk carriage fleet, because we have no policy for bulk carriage. We have virtually no tankers. We have Jones Act tankers, but not many other tankers. And we have no policy to develop that.

Senator INOUE. Less than 3 percent?

Mr. AMOSS. Three percent or less.

Senator INOUE. What percentage of our cargo is being carried by controlled carriers?

Mr. AMOSS. I do not have a figure on that. I think I can very accurately give you a range of controlled carriers whose position varies because of the relationship that this country has with the various countries. But controlled carriers, including the nonnational flag carriers that are under charter to controlled nations—and I think you should consider that, because it is really a surrogate controlled carrier—would in my view in the bulk trades be carrying more than 20 percent.

In the liner trades, the figure is varying, but in some trades it is quite active and growing. If we include national carriers, that is government-owned carriers, there you find really alarming new developments which pit companies such as ours, free enterprise companies owned by citizens and financed in a normal way, with governments who are operating ships.

Senator INOUE. What governments, sir?

Mr. AMOSS. Well, let me give you a little list quickly that come to mind: The Government of Israel, of course; the Government of Italy is the owner of much of its merchant marine; the Government of France is owner of much of its merchant marine. Obviously, the Socialist countries all own their merchant marines. And, of course, the developing countries in large part own their merchant marines as a government entity.

The private enterprise companies have to compete against this. Let me give you an interesting example of the kinds of things that happen that impact on a private enterprise businessman. We have to build ships and finance them where we can. We recently have been offered the opportunity in the current year of building abroad and finding our own financing for that. As you probably know, we would pay between 8 and 10 percent with Government-supported financing to patronize supported shipyards in foreign countries.

Not long ago, I was in the People's Republic of China on a maritime mission. While there I learned from the China Ocean Shipping Co., the national-flag line of China, that they were building six new container ships in Germany in a German shipyard. They were very proud of this.

I asked them about how they were financing those ships. They said, oh, we have a very nice financing package from the German Government, 4 percent for 20 years, for those ships. Here is a free enterprise country that has given a grant that they no doubt regard as assistance to a developing country like the People's Republic of China, but who will use those vessels to compete with their own flag and with us, and giving them that financial advantage of 4-percent money.

And I submit that that is the kind of thing we are finding in competition on the seas more and more today. When these vessels show up, as they will, carrying preference cargoes, one will wonder why they are cheaper, and it is this sort of thing that lies behind the entire picture. Obviously, these people do not need to earn a profit. They need to earn exchange. And whether they throw it out the window at their basic rates of dollar exchange, a lot of their own money means nothing to them as long as they can earn the currencies they need for their international transactions.

Senator INOUE. One of the most evil words in Government is "subsidy." I think if a poll were taken among the people of the United States, the majority of them would be against subsidies. At the present time the construction differential subsidy is for all intents and purposes a thing of the past.

You have just listed several countries that own their ships. Are these ships subsidized?

Mr. AMOSS. Well, I think it is obvious that they are, because the entire structure and financing of the company is through government capital. I know of instances—and I cannot cite you every case, but of instances—where the losses of the company are simply made up by additional cash grants. Obviously, they are probably accounted for in terms of the capital that the government has in the company, but the whole element of the discipline of profit and loss and earning enough to pay interest to make a return is not in the picture in most of these cases.

Senator INOUE. So we are competing with a lot of subsidized companies.

Mr. AMOSS. Without a doubt, and in many other forms as well. That is probably one of the more obvious ones, but subsidies are granted to companies. For instance, in Belgium if you build a ship in a Belgian shipyard and employ a Belgian crew you get 2-percent money. And many people operate ships in that way.

Senator INOUE. Do you believe you have been discriminated against by cargo preference laws of other countries?

Mr. AMOSS. Certainly. In some of the countries we deal in, the cargo preference, either overt or covert, operates to discriminate against operations of our own. When we can have conclusive evidence, we of course seek redress through the means available to us through our own Government. Sometimes that is effective; sometimes it is not.

Senator INOUE. Mr. Aldridge, you mentioned that because of the competitive nature of liner shipping, rebating is flourishing today?

Mr. ALDRIDGE. Yes, rebate is flourishing in the African trades because of the shortage of cargo and the excess amount of carriers that are in that trade. I think the American trades generally, and particularly I think in the break bulk trades, or those that are primarily break bulk, have been subjected to a heavy influx of dumped tonnage.

I think it is a little bit more difficult to dump container tonnage, because it is much more expensive and you require a complete system in order to operate with containers. But certainly in the developing countries excess tonnage has been a tremendous headache.

Senator INOUE. Do you give rebates?

Mr. ALDRIDGE. No, sir, we do not.

Senator INOUE. Thank you very much.

Senator GORTON. I would certainly like to thank the panel. We may submit additional questions to you in writing for your response. Thank you all very much for coming.

We will next hear from James Fish, executive director, Great Lakes Commission.

Mr. Fish, you may proceed.

STATEMENT OF JAMES FISH, EXECUTIVE DIRECTOR, GREAT LAKES COMMISSION

Mr. FISH. Mr. Chairman, I have submitted a statement.

Senator GORTON. Yes. That statement will be included in the record in full. If you could summarize at this point, we would appreciate it.

Mr. FISH. Thank you very much.

I am James Fish, executive director of the Great Lakes Commission. The Commission is an interstate compact commission organized by the eight States in 1955 and consented to by Congress in 1968. Those eight States are starting with Minnesota and running to New York bordering the Great Lakes.

I have provided some additional background on the Commission on the Great Lakes, which I will not burden you with in this short time. We are, as our name indicates, very concerned with the

Great Lakes-St. Lawrence Seaway water transportation system. That system has for many years, even prior to the completion of the St. Lawrence Seaway, served the economy of this region.

I was pleased this morning to note the witness list, which included the one U.S.-flag carrier that does serve the Great Lakes. That has been a very difficult problem for the Great Lakes region in dealing with the issue of preference cargo.

I have attached to my testimony an appendix which has a summary of all ship movements for the season of 1981, the calendar year of 1981. In that year there were six U.S.-flag sailings only, out of a total of some 756 vessel movements through the lakes.

In the area of maritime subsidies—and Senator, I do not consider it a dirty word. I think they are all over the place, and the only question that really comes up is, is someone getting something that someone else is not. That is where they get nervous about it, not just because someone gets one.

I am personally not disturbed about that. In fact, I would suggest in the area of maritime subsidy, as pointed out by the other speakers, practically every nation in the maritime trades offers some kind of a subsidy, some kind of a program, some way of supporting the merchant marine. It seems to me and to many others from the Great Lakes that if we do not offer that we are ultimately putting ourselves in a competitive disadvantage, as well as a defense—limiting our defense capability for the long term when we need those vessels.

It seems to us that if we are to compete in that world market there ought to be equity in those subsidies, there ought to be equity in those rules which we have to live with, which our private U.S.-flag lines must compete with. Otherwise it seems to us that it is—we are going downhill. I guess that is the best way to put it.

The cargo preference program we think is an integral part of that support. We can do it in a number of ways. We can do it directly, as was suggested by one of the questions. We can do it through the requirement that these products move on our vessels. I am not sure that one is better than the other.

We do have a deep concern in the Great Lakes that the cargoes that could move from there, the preference cargoes, are being diverted to other seacoasts because of the limitation of the services, one ship line serving one area of the world. We are deeply concerned about that. We do not have any ready answers.

Many of our ports have said, look, we want to ship U.S.-flag; there is not a U.S.-flag ship there. We want to ship Great Lakes products via the Great Lakes-St. Lawrence Seaway transportation route. So they are put in the terrible dilemma of having to deal in some cases with foreign-flag carriers to get products from our region to their destination.

I would point out another item of history that has been called to my attention by some of the senior members of our commission. That is that in the discussions that led to the seaway authorization it was at a minimum inferred to them that there would be a great deal of Government preference cargo directed through the Great Lakes sea transportation system, so much, in fact, that that would take care of a great deal of the debt for the St. Lawrence Seaway.

We have not experienced that high level. I have found no specific reference to that.

I also—knowing the veracity of the individuals with whom I'm dealing, I have no doubt that they received that inference either from Members of the then Congress or from members of the administration.

We think that because of the various services that are not present on the Great Lakes in terms of U.S. subsidies, that some of the legislative intent of the 1970 amendments to the Merchant Marine Act and the 1974 amendments have been thwarted. There has been some effort to redress some of those.

The proposed rule by the Secretary of Commerce in January 1981 for a 10-percent allocation by coastal area was ultimately rejected. We see some other preference commodities moving primarily to certain coastal areas where they logically move. The Public Law 480 program we see sometimes as moving in some very odd directions. When those products are produced and processed within 100 miles of the Great Lakes and moved to other coastal areas, we think that the transportation system probably is not working terribly well.

In the area of military cargoes, as you know there are a great deal of military cargoes produced in the Great Lakes region. We have not seen those cargoes move out of the Great Lakes, although I understand that this year Lykes will be delivering some tanks that were produced in the Detroit area to Israel, and that is, we believe, a major step forward.

We have looked—and staff informed us that you would receive some comments on Senator Dixon's proposal in S. 2511. We have looked at that. The least landed cost system we believe has worked fairly well in the Public Law 480 program, although we have not participated in the title I or bulk cargo movements to any extent. We do not see that as making a substantial change in the distribution of cargoes as they are now moving.

We would express some concern about the cargo consolidation provisions. We believe that could be a bit of a mischievous activity, with either ship lines or administrative agencies favoring one area as to another. We are a bit concerned that if that legislation is to pass that that section should be very clearly described in a committee report as not leading to any favoring of the ports of one State or one coast or one region due to that consolidation provision.

Mr. Chairman, that completes my summary. I would be pleased to answer any questions here today or I would entertain them in writing.

Senator GORTON. Admiral Shear, the Maritime Administrator, testified in connection with the origin of much cargo—I am reading at this point—"In this regard, USDA purchases of Public Law 480 title II commodities transported through Great Lake ports, which amounted to 26 percent of the total through all coasts in 1980, has risen to 40 percent in 1981 and has maintained that level so far in 1982."

He also stated a considerable interest in seeing to it that the Great Lakes was the source of a fair amount of cargo. Have these administrative actions or other proposed administrative actions ameliorated your concerns in any respect?

Mr. FISH. Over the period of years, Public Law 480 title II movements through the Great Lakes as a percentage of the national movements have varied greatly. They have been down as low as approximately 15 to 18 percent. They have been—and I find the 40 percent figure a bit high. We would have to look at that to see. There is a certain seasonal nature of the system.

In order to achieve a relatively good number on December 31, you have to have a very high number through August. So, yes, we have been pleased with the movements of Public Law 480.

Senator GORTON. Thank you.

Senator INOUE.

Senator INOUE. The statistics that you presented in your appendix 1, that out of 756 trip sailings only 6 were on U.S. bottoms?

Mr. FISH. That is correct. Those were all Lykes vessels. There were three vessels making two trips each.

Senator INOUE. For calendar year 1981?

Mr. FISH. That is correct.

Senator INOUE. Has this been the situation the last 5 years?

Mr. FISH. No. Six was greater than the five the year before. Senator, it has been improving about one vessel movement per year. In 1971—as I was preparing for this I reread the testimony of the Commission at that time. During that year there was only one sailing of a U.S.-flag vessel and no liner service.

Senator INOUE. Do you have any reason for this?

Mr. FISH. From Lykes' perspective, I would have to say that they are making money from it.

That is my hope. The U.S.-flag vessel operators have chosen not to serve that area, one, because a number of their larger new vessels—they have built vessels that simply cannot pass through the seaway, the St. Lawrence Seaway.

We have not as a Nation made a commitment to ship design or, for that matter, shipbuilding for ocean capable vessels or seaway capacity ocean capable vessels. So without the vessels, a number of the ship lines could not even get their ships in.

[The statement follows:]

STATEMENT OF JAMES FISH, EXECUTIVE DIRECTOR, GREAT LAKES COMMISSION

Mr. Chairman, Members of the Committee, I am James Fish, Executive Director of the Great Lakes Commission. I am pleased to have the opportunity to appear before this Subcommittee to discuss some of the problems the Great Lakes region has encountered with the Cargo Preference Program. We will also make several suggestions for your consideration.

Because the great Lakes Commission has not appeared before the Subcommittee for a significant period of time, my testimony includes significant background on the Great Lakes Commission, the Great Lakes regional economy and the water transportation route on which this region still depends. We hope this background will be helpful to you as you move forward to consider future adjustments to the Cargo Preference Program and other maritime issues.

THE GREAT LAKES COMMISSION

The Commission is an Interstate Compact Commission formed in 1955 by the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. The Commission is funded solely by these eight States; there is no federal funding. Our concerns range from regional economic issues such as industrial development, imports and exports, ports and shipping to important resource management issues of water supply, water quality, shoreline use, recreation and fisheries management.

The Commission represents the interests of State Legislators, governors and State water administrators to the Congress and to federal agencies as policies are developed and implemented. We work with unions, shipping companies, ports, environmental groups, academic institutions, federal agencies, state agencies, and associations of all of the foregoing. We also serve as an information and referral service.

The Commission has recently revised its committee structure to reflect current emphasis. We function with two committees each with two subcommittees. Our Natural Resources Management Committee focuses on the broad subject areas under the topics of Water and Land & Air. Our Transportation & Economic Development Committee will likely be of greater interest to you. This committee includes a Subcommittee on Great Lakes/Seaway & Related Transportation. It is the first time that our Commission has overtly attempted to recognize the inter-dependencies between the water transportation mode and the overland modes. General comments from both members of the Commission and industry friends of the Commission support this expanded approach to the transportation issue. The second subcommittee of our transportation grouping relates to Economic Development and Promotion. Our Commissioners believe that the transportation systems are critical to any plans for economic development of the region and vice versa. Secondly, they recognize that the system must be promoted in order to have the general public and, more importantly, industry recognize the benefits which may be achieved by its utilization.

THE GREAT LAKES

The Great Lakes are the largest body of fresh surface water in the world, and are the second largest freshwater body in terms of volume in the world. They are the greatest environmental and economic asset which bless this continent. The Great Lakes Commission has not and will not stand by and permit environmental or economic destruction of this asset through misuse—or through enactment of discriminatory or negative legislation on the part of the federal government. We believe in the wise use and development of this asset. As with any asset—financial or resource—water must be both protected and used in our regional and national economy if we are to continue to prosper as a country.

THE GREAT LAKES WATER—A NORTH AMERICAN TRANSPORTATION SYSTEM

A serious failure in the United States is that most of the time we consider the Great Lakes as solely a United States resource. They are not. They are truly a North American resource shared with our friendly neighbor—Canada. Canada moves 60% of its export wheat through the Great Lakes/St. Lawrence Seaway system. Canada maintains its own Coast Guard and icebreaking capability in the Great Lakes. Perhaps most important, Canada's investment in the St. Lawrence Seaway and the Welland Canal equal or exceed the U.S. investment in the system's channels and locks and the lower St. Lawrence River—whether we talk about current appropriations or future user fees we cannot forget this point.

It is frustrating that federal policies tend to define Lakes issues and problems as regional in nature, not national, much less international. This is apparent in both transportation and environmental areas.

However, federal laws affecting the Lakes, from the Northwest Ordinance of 1787 forward, recognize the international boundary created by the Great Lakes. The federal government is assigned the responsibility to develop and maintain our commitments to Canada.

The States are prepared to meet their own responsibilities to the Great Lakes, even in times of economic difficulty. They are not, however, prepared to assume a federal responsibility without a concurrent grant of authority. This would require a reduction of several federal agencies' authority, which I doubt would be forthcoming.

While we expect the Canadians to comply with agreements concerning the Lakes, and operate, maintain and improve their transportation facilities, we cannot lessen our own commitments—or even appear to do so. The Lakes are a joint resource.

GREAT LAKES ECONOMY

It is no accident that much of America's 19th and 20th century industrial boom took place in the Great Lakes. We have raw materials—especially iron ore and coal—and the water transportation system to move those as well as finished products, first on the Great Lakes, then on New York's Erie Canal and now on the St. Lawrence Seaway. Agricultural land in the Great Lakes region and its transporta-

tion hinterland has permitted this nation to not only provide food for our own people but to develop an export capacity second to none—again, using our own Great Lakes/St. Lawrence Seaway system. Simply put, water and water transportation are key to this region.

Commerce passing through the St. Mary's canal at Sault Ste. Marie, Michigan provides the example. In 1979, 108 million tons moved, 96 million tons moved in 1980 and 99 million tons moved in 1981. For comparison, annually this is about $\frac{3}{4}$ the tonnage moving through the Panama Canal in 1980. These materials simply could not be handled as economically or in environmentally acceptable ways on overland transportation systems. I wish to remind the Members that such tonnage figures are not just statistics, not just loaded ships, but rather represent jobs, not only in this area, but nationwide.

Ultimately, it is critical to keep in mind that the Great Lakes economy is a water economy. The commerce and industry that grew in our cities of the Lakes requires great volumes of fresh clean water and the water transportation they use continues to be a critical factor in our economy.

It is this concern about the heartland economy and its dependence on water transportation which brings the Great Lakes Commission to a hearing on cargo preference and maritime subsidies.

U.S. FLAG SERVICE IN THE GREAT LAKES

U.S. Flag vessel service to the Great Lakes is almost non-existent. This year only seven or eight U.S. Flag sailings are scheduled, by only one ship line—Lykes. Lykes serves the Mediterranean area only. It should be noted, however, that this meager number is an improvement from past years. During 1981 Lykes provided only six sailings (with three vessels) of a Great Lakes overseas total of 756 trips (Appendix 1). 1971 records indicate there was no U.S. Flag liner service and only one overseas sailing by a U.S. Flag vessel of any type during that year.

Shipment of preference cargoes from the Great Lakes is seriously hampered by the lack of U.S. Flag service. Because there is limited U.S. Flag service basic manufacturing industries in the Great Lakes are limited in their ability to compete on bids for government preference cargoes.

The Commission has worked cooperatively with Great Lakes ports over the years to encourage U.S. Flag operators to provide service to the Lakes—but they have not. The decision by U.S. subsidized vessel operators thwarts precise federal policy calling for equity to all port ranges. It also thwarts federal policy which calls for equitable geographic distribution of preference cargoes.

MARITIME SUBSIDIES

Cargo preference is tied inextricably with the broader subject of maritime subsidies. Most nations provide some sort of subsidy for their national flag carriers. These subsidies may be tax write-offs, minimal taxes, operating subsidies, construction subsidies, or other forms. It is clear that the U.S. is not unique in providing a subsidy to its merchant marine. It is equally clear, that if the U.S. eliminated its maritime subsidies, U.S. Flag services might well disappear from the surface of the ocean. Disappearance of the U.S. Flag merchant marine would create significant defense and economic consequences. As a matter of both equity for our own industries, competition with other nations, and security for this country, the Great Lakes Commission recognizes the need to support the existing U.S. Merchant Marine and to encourage additional services by U.S. Flag operators.

Even though U.S. individuals and companies own ships registered under other national governments, and crewed by nationals of other countries, we cannot presume that these vessels would necessarily be available to our nation in the case of emergency.

The United States today depends upon foreign trade to a greater extent than at any other time. Strategic materials must be imported to the United States, and must be carried in vessels. Our economic viability is tied to our ability to deliver goods to foreign markets. Although there may have been a time when the United States could legitimately consider itself a nation on to itself, that time has long passed. The U.S. is a maritime nation of necessity competing in world trade. The Great Lakes region shares in that world trade which permits the nation to prosper.

If the U.S. is to continue to compete, we must either convince our trading partners to remove their maritime subsidies or continue our own. Equal trade policies and equity in transportation assistance should be a keystone in our international relations.

CARGO PREFERENCE PROGRAM

The Cargo Preference Program is an integral part of this nation's effort to promote the development, operation and continuation of a strong merchant marine. The availability of preference cargo as a base load can make the difference of whether a ship line schedules service for a region or not. It can also make the difference of profit or loss on any individual voyage. The Great Lakes receive far less than their proportionate share of the cargo preference shipments. By any reasonable estimate of this region's contribution to the national economy, the shipment of preference cargo from this region through the Great Lakes/St. Lawrence Seaway system is minuscule. Even with this minimal level of preference cargo moving via the Great Lakes, the region remains supportive of the Program as a means to facilitate operation of the U.S. Merchant Marine.

There is, however, deep concern that the Great Lakes is not receiving a proper share of all preference cargoes. PL 480 Title II cargoes are generally produced in the Great Lakes region and the Great Lakes trade routes carry approximately 25 percent of this cargo. However, in other areas such as Department of Defense cargoes, Export-Import Bank supported cargoes, and bulk grain sales, the Great Lakes simply does not participate.

The Great Lakes Commission has observed and monitored the Cargo Preference Program since the opening of the St. Lawrence Seaway. A number of our longtime members, including several who participated in lobbying leading to the passage of the Wiley Dondero Act, have reported to me that promises were made regarding use of the Seaway to transport government preference cargoes. One of the individuals has reported that estimates of available government impelled cargo were sufficiently high that movement of that cargo alone would have made a major contribution towards paying off the St. Lawrence Seaway debt. While I have not been able to locate a specific reference in the hearing record of the St. Lawrence Seaway legislation, I have no doubts that such inferences were made by federal officials at the time the Seaway was under consideration. Needless to say, that inferred promise has not been kept.

Legislative intent of the Merchant Marine Act Amendments of 1970 included a mandate for equitable service and equitable distribution of preference cargoes. Clearly the legislative intent of that Act has been thwarted.

In 1974, the Merchant Marine Act was again amended providing that no less than 10 percent of the available maritime subsidies should be directed to each of the port ranges. The Maritime Administration has argued that these were available funds, not dedicated funds. Since 1974 the 10 percent figure has not been reached in the distribution of funds to the Great Lakes sea coast. Clearly, legislative intent has been thwarted.

In 1981, the Commerce Department Secretary proposed regulations that provided a 10 percent allocation of preference cargo to each of the respective sea coasts. Although the comments were more than 2 to 1 in favor of that proposed rule, it was not put into effect. Some of the arguments against that rule related to paperwork and diversion of cargoes from other port ranges. However, I would call your attention to the strategic petroleum reserve program, which is a preference program and is blatantly port-range specific. We in the Great Lakes recognize that certain commodities can only move to certain port areas and should not be diverted. However, we believe that this type of port or range specific traffic should be balanced by other traffic which is less range specific. Amelioration of the "discrimination" identified in the strategic petroleum reserve program could be to have all PL 480 cargoes which are produced in the Great Lakes hinterlands directed to move via the Great Lakes/St. Lawrence Seaway system.

MILITARY CARGOES

It has been estimated that as much as 40 percent of Department of Defense cargoes shipped overseas are produced in the region tributary to the Great Lakes ports. Yet only a minuscule amount of this cargo moves via Great Lakes ports.

It is difficult to believe that a military vehicle produced in Detroit, for example, can be put on a railcar—shipped overland with all the possibilities for damages enroute, with rail origin and destination handling charges, then processed and loaded for ocean shipping to its destination overseas—at a cost comparable to or exceeding a routing which would place that vehicle on a ship in a Great Lakes port for direct waterborne delivery to its overseas destination.

What this says is that we should strive for proper routing of cargoes. U.S. Flag vessels should serve its Great Lakes ports for DOD cargoes. Exceptions and waivers available for non-U.S. Flag routing of non-security DOD cargoes from ocean ports

should be applied equally to shipments to Great Lakes ports. All modes of transportation should be used for maximum transportation efficiency. Overall, we should play down intermodal and regional squabbles and work for national transportation goals and objectives.

We recognize that Department of Defense goods generally are in control of the Military Sealift Command. Military Sealift Command charters vessels for its own use and purchases vessels for its own use. We suggest that this total government (DOD) operation is detrimental to the U.S. Flag transportation industry and may not serve the best Defense interests. When in military charter these U.S. Flag merchant marine vessels do not service the general trades of the U.S. We suggest that the Military Sealift Command be rechartered as the "Military Sealift Office" with responsibility for compiling various ocean transportation requirements of the defense agencies. This consolidated report would then be provided to the Maritime Administration for their use in procuring the necessary U.S. Flag merchant marine services. The report could also be provided to all U.S. Flag operators so they could bid competitively to carry DOD cargo. The requirements of the Military Transportation Act of 1904 could easily be met through this revised authority. It would also provide base cargo for all U.S. merchant marine fleets.

S. 2511

S. 2511, recently introduced by Senator Dixon, appears to provide clarification to the existing cargo preference statutes. The concept of least landed cost is well defined covering goods from point of last production to port of destination. Great Lakes ports generally feel this provision works well as used by the U.S. Department of Agriculture in the procurement of Public Law 480, Title II—Commodities.

The legislation appears to make no substantive change in the existing cargo preference legislation (Section 901b of the Merchant Marine Act of 1936, as amended). It does, however, define that all preference cargoes should move at the lowest land cost whenever possible. It does not appear that the current cargo distribution between foreign flag vessels and U.S. Flag vessels will change. It only adds the cost saving feature of least landed cost. The goal of this legislation, reducing the cash outlays for transportation services is a laudable one, particularly in view of the current budget deficits of the federal government.

It is necessary, however, to express some concern over the provisions of Section 1.C.i. "To encourage the consolidation of cargo subject to this subsection whenever consolidation would promote shipment of such cargo at lowest landed cost . . .", and the similar subsection in Section 2 of the bill. This cargo consolidation section could lead to discrimination between ports and port ranges by either federal agencies or ship lines under the guise of "consolidation of cargo." This section would appear to leave open the door for conflicts with Article 1, Section 9, of the Constitution which states "No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another." It could be misused by ship lines to require that cargoes be consolidated at the ports of their choice rather than the least cost ports, or by agency personnel who have a preference for one port or port range over another. The legislative intent of this section should be clearly noted to avoid possible constitutional conflicts.

SUMMARY

The Great Lakes region continues to support the cargo preference program. However, we do not feel the region has received its proportionate share of preference cargo movements, even though the region is a manufacturing and agricultural center for the nation. We believe a more equitable distribution of cargoes as well as U.S. Flag ship services could serve the nation well.

We look forward to your questions. We wish to work closely with the Committee as any revisions to Cargo Preference Programs are developed.

(Appendix 1)

1981 GREAT LAKES/OVERSEAS VESSEL TRAFFIC

Countries of Registry—36; Number of vessels—472; Number of trips—756

	Country	Vessels	Trips
Ba	Bahamas.....	1	1
Be	Belgium.....	7	19
Br	British.....	23	46
Bz	Brazil.....	3	5
Ca	Canada.....	2	2
Ci	Cayman Islands.....	1	1
Cu	Cuba.....	5	8
Cy	Cyprus.....	2	2
De	Denmark.....	4	5
Du	Dutch.....	6	8
Fi	Finland.....	6	14
Fr	France.....	3	5
Ge	Germany.....	7	9
Gk	Greek.....	129	189
HK	Hong Kong.....	2	4
lc	Iceland.....	2	3
In	India.....	15	17
It	Italy.....	6	7
Ja	Japan.....	20	24
Li	Liberia.....	59	114
NA	Netherlands Antilles.....	3	8
No	Norway.....	21	35
Pa	Panama.....	40	54
Ph	Philippines.....	10	18
Pk	Pakistan.....	4	4
Po	Poland.....	6	12
Pu	Peru.....	2	3
Ru	Russia.....	16	24
Si	Singapore.....	14	17
Sp	Spain.....	22	33
Ss	Switzerland.....	2	4
Sw	Sweden.....	2	3
Ta	Taiwan.....	2	3
Tu	Turkey.....	4	9
US	United States.....	3	6
Yu	Yugoslavia.....	18	40
	36 countries.....	472	756

Senator INOUE. Thank you very much.

Senator GORTON. Thank you very much, Mr. Fish.

Our next panel will consist of an agricultural group: Mr. Berg from the American Farm Bureau Federation, and Mr. Nelson from the National Association of Wheat Growers. Are those two gentlemen here?

We have a rollcall going on now. Senator Inouye and I will take turns going down to vote. If you will come on up and start, he will be back relatively soon and we may not have any recess at all.

Mr. Berg, you may proceed. Again, if you would summarize your statement.

**STATEMENTS OF GEORGE L. BERG, JR., ASSISTANT DIRECTOR,
NATIONAL AFFAIRS DIVISION, AMERICAN FARM BUREAU FED-
ERATION; AND WAYNE NELSON, PRESIDENT, NATIONAL ASSO-
CIATION OF WHEAT GROWERS**

Mr. BERG. We appreciate the opportunity to appear here this morning and to present the Farm Bureau's views with regard to cargo preference and specifically section 901(b) of the Merchant Marine Act, and to comment briefly on S. 2511, a bill to amend section 901(b) to require that if the U.S. Government ships cargo on a U.S.-flag vessel, it must be on the U.S.-flag vessel that provides transportation at the lowest possible landed cost.

As you may know, the Farm Bureau is the largest general farm bureau organization in the United States, with a membership of 3.3 million families in 48 States and Puerto Rico. It is a voluntary, nongovernmental organization and represents farmers who produce virtually every commodity in the entire country.

Mr. Chairman, section 901(b) of the Merchant Marine Act provides that any agency of the U.S. Government when purchasing equipment, materials, or commodities shall take such steps as may be necessary to assure that at least 50 percent of the gross tonnage which may be transported on ocean vessels shall be transported on private-owned U.S.-flag commercial vessels to the extent such vessels are available at fair and reasonable rates. This language was intended to assist the maritime industry, whose jobs were disappearing as the higher wages of the American seamen were causing shipowners to move to the cheaper labor provided by crews in foreign countries. Another purpose was to enhance our country's security by attempting to strengthen our merchant marine fleet.

There are several reasons why we believe this provision of the law should be repealed. First of all, it is costly to the American taxpayer. Mandating a 50-percent cargo preference for all Government cargoes has cost millions of dollars, has disrupted our Nation's economy, and has disturbed trade relations with foreign countries.

Second, cargo preference is contrary to our foreign policy and constitutes a policy of protectionism. It says in effect that our maritime industry is not capable of standing on its own feet and meeting foreign competition.

Third, increased transportation costs resulting from cargo preference inhibits exports. Cargo moves when there is a market. If increased transportation costs price the shipment out of the market, the cargo will not move. This is especially harmful to agricultural exports, which are always sensitive to transportation costs.

And finally, cargo preference directly contradicts the Farm Bureau's position of less Government regulation of the private sector.

As far as S. 2511 is concerned, we believe the proposal is a step in the right direction. The bill addresses the costs of administering the cargo preference system and provides that future Government-generated cargo, whether shipped on U.S.-flag or foreign vessels, be shipped at the lowest landed cost.

U.S.-flag vessels are currently charging rates of more than three times foreign flag rates. If this situation is permitted to continue, it will substantially reduce the movement of agricultural exports, reduce prices received by farmers, and lower farm income because

of lost U.S. export markets, and reduce the number of jobs in those industries involved in the movement of grain.

The Farm Bureau recognizes the need for a strong U.S. merchant marine, but we oppose using the cargo preference concept as a means of achieving that objective.

We want to emphasize how vital agricultural export sales are to the Nation's economy, as well as to agriculture. The revenue we have received from agricultural export sales has greatly reduced the impact of cash outflow from imported petroleum and automobiles. During the past 5 years, agricultural export sales have pumped an aggregate of \$167 billion into our Nation's economy.

We are fearful that requirements such as those contained in section 901(b) might be extended to include export shipments of agricultural commodities now being moved in bulk, including wheat, corn, soybeans and sorghum, to name only a few.

An excellent example of the damage to agricultural interests caused by unworkable cargo preference requirements was cited a few months ago by the Cargill Corp., which we believe has already been called to the committee's attention. Because of the higher premium rates charged by U.S.-flag vessels and because of requirements under the aid program, the Arab Republic of Egypt chose to scale back its purchase of 125,000 metric tons of corn to only 55,000 metric tons. The remaining 70,000 tons of the sale have been lost, lost not just to Bunge and Cargill, but to the farm economy as well.

The policy applied in this case did not help agriculture. It did not help the U.S. merchant marine. And it certainly did not help the country in need of substantial U.S. foreign aid to finance food imports and economic development.

In summary, Mr. Chairman, we oppose the concept of cargo preference because we believe it would result in lower net income for farmers. It would inhibit agricultural exports, and it would place a high fiscal burden on Government and taxpayers for the support of farm prices and farm incomes. We believe it is time to recognize the economic facts of life with regard to present ocean freight rate differentials and their effect on the demand for U.S. exports.

We thank you for the opportunity to present our views.

[The statement follows:]

STATEMENT OF GEORGE L. BERG, JR., ASSISTANT DIRECTOR, NATIONAL AFFAIRS
DIVISION, AMERICAN FARM BUREAU FEDERATION

Farm Bureau is the largest general farm organization in the United States with a membership of 3.3 million families in 48 states and Puerto Rico. It is a voluntary, non-governmental organization and represents farmers who produce virtually every agricultural commodity in the entire country.

We appreciate the opportunity to present Farm Bureau's views with regard to cargo preference and specifically Section 901(b) of the Merchant Marine Act and to comment briefly on S. 2511, a bill to amend Section 901(b) to require that if the U.S. Government ships cargo on a U.S. flag vessel, it must be on the U.S. flag vessel that provides transportation at the lowest landed cost.

In January 1982, the elected voting delegates of the member State Farm Bureaus adopted the following policy pertaining to cargo preference:

"Since Cargo preference requirements make U.S. farm exports less competitive in world markets, we oppose any cargo preference legislation that applies to agricultural products.

"We also oppose the cargo preference provision of maritime agreements such as those with the Soviet Union and the Peoples Republic of China which require that one third of their U.S. grain purchases be transported on U.S. flag vessels, one-third

on their vessels and one-third on third-country flag vessels. Added costs of shipping on higher cost U.S. flag vessels discourage U.S. commodity purchases and put the United States in the position of a residual supplier."

Mr. Chairman, Section 901(b) of the Merchant Marine Act provides that any agency of the U.S. government, when purchasing equipment, materials or commodities shall take such steps as may be necessary to assure that at least 50 percent of the gross tonnage, which may be transported on ocean vessels, shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates. This language was intended to assist the maritime industry whose jobs were disappearing as the higher wages of the American seamen were causing ship owners to move to the cheaper labor provided by crews in foreign countries. Another purpose of Section 901(b) was to enhance our country's security by attempting to strengthen our Merchant Marine fleet.

There are several reasons why we believe this provision of the law should be repealed. First of all, it is costly to the American taxpayer. Mandating a 50 percent cargo preference for all government cargoes has cost millions of dollars, has disrupted our nation's economy, and has disturbed trade relationships with foreign countries.

Second, cargo preference is contrary to our foreign policy and constitutes a policy of protectionism. It says in effect that our maritime industry is not capable of standing on its own feet and meeting foreign competition.

Third, increased transportation costs resulting from cargo preference inhibits exports. Cargo moves when there is a market. If increased transportation costs price the shipment out of the market, the cargo will not move. This is especially harmful to agricultural exports which are always sensitive to transportation costs.

And finally, cargo preference directly contradicts Farm Bureau's position of less government regulation of the private sector.

As far as S. 2511 is concerned, we believe the proposal is a step in the right direction. The bill addresses the costs of administering the cargo preference system and provides that future government generated cargoes, whether shipped on U.S. flag or foreign vessels, be shipped at the lowest landed cost. U.S. flag vessels are currently charging rates of more than three times the foreign flag rates. If this situation is permitted to continue it will substantially reduce the movement of agricultural exports, reduce prices received by farmers and lower farm income because of lost U.S. export markets, and reduce the number of jobs in those industries involved in the movement of grain. Farm Bureau recognizes the need for a strong U.S. Merchant Marine, but we oppose using the cargo preference concept as a means of achieving that objective.

Although we would prefer legislation that would repeal or alter the cargo preference requirements in the Merchant Marine Act, we believe the fundamental principles embodied in S. 2511 are a step in the right direction and should receive further consideration by the Congress.

We want to emphasize how vital agricultural export sales are to the nation's economy as well as to agriculture. The revenue we have received from agricultural export sales has greatly reduced the impact of cash outflow from imported petroleum and automobiles. During the past five years, agricultural export sales have pumped an aggregate of \$167 billion into our nation's economy. We are fearful that requirements such as those contained in Section 901(b) might be extended to include export shipments of agricultural commodities now being moved in bulk, including wheat, corn, soybeans, and sorghum, to name only a few.

Fortunately, Congress has not imposed cargo preference on private commercial cargoes. Until now, preferences have been imposed solely on goods where the federal government has some proprietary interest or is a party to the transaction. Nevertheless, requirements such as those included in Section 901(b) are considered a "foot-in-the-door" approach for those advocates who have their eyes on agricultural commodities. As you know, legislation is pending in the House which calls for a large percentage of U.S. dry bulk commodity exports and imports to be shipped in U.S. vessels. The percentage U.S. participation would be increased by 4 percent annually, reaching a total of 40 percent after 10 years of the Act.

In our testimony a few weeks ago before the House Public Works and Transportation Committee, we urged defeat of this new cargo preference initiative. We also urged a repeal of the cargo preference provisions which increase the cost of this country's food aid program. The enforced use of U.S. vessels to carry our dry bulk commodity exports would cause direct and predictable harm to U.S. farmers. It would encourage more production in other exporting countries thereby reducing U.S. exports as well as reducing U.S. farm prices and income.

It should be emphasized that moving grain and soybeans in U.S. vessels would be much more expensive than using lowest-cost vessels available on the world freight market. Based on experience with the cargo-preference premiums which already apply to Food-for-Peace shipments, and taking into account that a massive increase in the U.S. fleet would be required to cope with a 40 percent share of U.S. dry bulk commodity exports, the increase in average cost of such U.S. commodities to foreign buyers could be anywhere from \$20 to \$60 per ton by the time the full 40 percent requirement takes effect. Assuming, for example, that the average cost increase to foreign buyers is \$40 per ton, and assuming an FOB value of \$200 per ton for U.S. grain exports, the effect of a 40 percent requirement would be to raise the landed-overseas total cost by roughly 20 percent.

This increase in cost, however, could not be passed on to the foreign buyer. The marketplace would compel our grain prices to remain competitive. Consequently, the increase in costs would be handed back down the market chain to producers in the form of smaller exports and lower prices. Lower farm prices will lead directly to large government price support expenditures. The proposition that farmers and farm price support programs should bear the financial burden of building up the Merchant Marine fleet for national security, or any other purpose, is unjustifiable.

Cargo preference schemes already in operation cost American agriculture and U.S. taxpayers in general, millions of dollars annually. In Public Law 480, these restrictions require that 50 percent of U.S. concessional sales and donations be moved in U.S. bottoms. In fiscal year 1981, moving 43 percent of Public Law 480 goods in U.S. vessels cost about \$90 million in subsidy money. In fiscal year 1982, \$106.8 million is expected to be obligated for the title I program under Public Law 480. Although figures are not readily available for the title II program, it is our understanding that an additional \$10 million could be added to the total estimated costs under Public Law 480. Besides the fact that these funds could have been used to export greater quantities of food, thereby further promoting U.S. agricultural exports and expanding markets, there is clear evidence that the cargo preference regulation is not achieving its hoped-for benefit—that is, national security through a strong Merchant Marine fleet. On the contrary, Public Law 480 goods are moved in old, inefficient U.S. vessels of questionable security value and sustained only by the captive market.

An excellent example of the damage to agricultural interests caused by unworkable cargo preference requirements was cited a few months ago by the Cargill Corporation which we believe should be brought to the committee's attention.

In January 1982, the Arab Republic of Egypt (ARE) tendered to buy 125,000 metric tons of U.S. corn under the Agency for International Development program. The ARE invited bids for the sale in January 1982 for delivery during March 1982. In February the ARE notified three U.S. exporters of sales confirmation, subject to AID approval. The Dreyfus Corporation was awarded the sale of 30,000 metric tons shipped via New Hampshire. Bunge Corporation was awarded the sale of 50,000 metric tons shipped via the Gulf, the Cargill was awarded 45,000 metric tons also via the Gulf.

The buyers secured freight for the New Hampshire shipment on a foreign-flag vessel at the rate of \$22 per ton. However, the freight rates for the Gulf shipments abroad U.S. flag vessels proved to be much higher. The Bunge shipment would have been forced to bear a rate of \$82 per ton while Cargill's share of the sale would have been a rate of \$104 per ton.

As you know, AID programs do not allow the U.S. government to pay the difference between foreign flag and U.S. flag rates, as in the case in Public Law 480 shipments. In this instance, the ARE would have been forced to pay the \$60-82 premiums from its own funds, which they properly thought was exorbitant.

Forced with this additional cost, the ARE requested a waiver of cargo preference requirements that would have allowed the use of foreign flag vessels. However, MarAd chose to call the U.S. flag rates "reasonable" and AID denied the request. As a result, the ARE chose to scale back its purchases. The 30,000 ton sale to Dreyfus—shipped on a foreign flag vessel—went forward, as did 25,000 tons of the sale to Bunge. The remaining 70,000 tons of the sale have been lost—lost not just to Bunge and Cargill, but to the farm economy as well.

The policy applied in this case did not help agriculture; it did not help the U.S. Merchant fleet; and it certainly did not help a country in need of substantial U.S. foreign aid to finance food imports and economic development.

In summary, Mr. Chairman, we oppose the concept of cargo preference because we believe it would result in lower net income for farmers; it would inhibit agricultural exports; and it would place a high fiscal burden on government and taxpayers for the support of farm prices and farm incomes. We believe it's time to recognize

the economic facts of life with regard to present ocean freight rate differentials and their effect on the demand for U.S. exports.

We thank you for the opportunity to present our views on this important issue.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question 1. In 1954, when the cargo preference law was enacted, the U.S. merchant marine was the strongest in the world, so it is not clear to me that its purpose was to preserve dwindling seafaring jobs, though clearly it has some benefit in that area now. Going, then, to the national security rationale, are you saying it is simply not worth spending millions of taxpayer dollars through this or other programs to support the merchant marine?

Answer. Although the U.S. merchant marine might have been the strongest in the world in 1954, many of the U.S. flag vessels in operation at that time were being used to transport supplies in connection with the Korean conflict. We were phasing out our involvement in Korea, and therefore, it was necessary to use most of our merchant fleet, including many ships from the reserve fleet to transport supplies and troops back to the United States.

As I mentioned in my prepared statement before your Subcommittee, many people are of the opinion that the purpose of cargo preference is to promote the development of a U.S. flag bulk shipping fleet. After 28 years of trying to develop a strong merchant fleet, our bulk fleet today consists of only about 15 ships, 10 of which are World War II vintage. It is common knowledge that shipbuilding, crew payroll costs, insurance costs, maintenance and repair costs, and overhead costs are much higher for U.S. flag operations compared to foreign flag vessels.

The point has been reached where a 40,000 deadweight ton bulk carrier built in one of the finest Japanese shipyards for about \$22 million would cost \$66 million if built in a U.S. shipyard.

As far as national defense is concerned, we do not believe there would be any direct or indirect military need for dry bulk vessels. In a study prepared by the Maritime Administration two years ago, it was emphasized that dry bulk carriers cannot be used for military cargo without extensive conversion, hence there is no military requirement for this type of vessel. This observation has been confirmed by the Department of Defense.

It should also be mentioned that American companies control and manage the Liberian and Panamanian vessels which make up the U.S. effective control fleet. The U.S. effective control fleet has more than enough sea lift capability to transport all U.S. dry bulk exports at current levels in the event our nation needs them in time of war or national emergency.

Question 2. You condemn protectionism to support the U.S. fleet. Many nations reserve vast portions of their cargo to their own fleet and the trend is increasingly to do so. Should the U.S. be so pure at the risk of undermining its own fleet?

Answer. Cargo preference is a "protectionist" wolf in sheep's clothing offered under the guise of national defense. As you know, we have tried protectionism in this country on several occasions and have found it to be disastrous for all concerned. Briefly, restrictive trade practices have never worked satisfactorily and there is no reason to believe they will work today simply because we are in an economic recession.

Many countries, shortly before the depression in the early 1930's, began putting up trade barriers to help shelter their own economies. These barriers led to successive rounds of economic warfare, a prolonged worldwide depression and in the opinion of some economists, to World War II.

The maritime industry is not alone in facing stiff competition from overseas. Automobiles and steel are among the hardest hit. Men and women in those industries—union and management—are working together to cut costs, to increase productivity, to emphasize quality, and to pull themselves up by their own bootstraps. That same prescription to cure economic ills should apply to the maritime industry.

Question 3. You allege that U.S. flag vessels charge three to four times the foreign flag rates. Are you speaking of isolated incidents or do you assert that this is generally the case?

Answer. In my testimony on June 16, I did state that U.S. flag vessels are currently charging rates of more than three times the foreign flag rates. I also mentioned the events surrounding a recent sale of U.S. corn to the Arab Republic of Egypt which resulted in the cancellation of 70,000 metric tons of grain for purchase

under an AID loan program. I do not believe this was an isolated incident in view of some facts compiled by Maritime Research, Inc., which publishes the Maritime Research Charter Newsletter. This organization was asked to examine all comparable fixtures it had published which occurred during the same week, which involved the same ports, same terms and approximately the same tons of cargo. A few examples are as follows:

In January 1981, the U.S. flag vessel *President Cleveland* was fixed to carry 20,000 tons of wheat from the Columbia river to Egypt at a rate of \$139.82 per ton. During the same week the Liberian flag vessel *Faustina* was fixed to transport 23,500 tons of wheat between the same port at a rate of \$52.75 per ton. The probable added costs for the U.S. vessel: \$1,741,400.

In July 1981, the U.S. flag vessel *Bulk Transporter* was fixed to carry 15,500 tons of wheat from the U.S. Gulf to Zaire at a rate of \$147.75 a ton while the Liberian flag vessel *Orient Horizon* was fixed to carry 12,000 tons of wheat in the same trade at the rate of \$58.50 a ton. The probable added costs for the U.S. flag vessel: \$1,383,375.

In February 1982, the U.S. flag vessel *Potomac* was fixed to carry 22,000 tons of wheat from the North Pacific to Egypt at a rate of \$112.10 per ton. During the same week the Greek vessel *Common Venture* was fixed to carry 25,000 tons of wheat in the same trade for \$30.01 a ton. The probable added cost for the U.S. flag vessel: \$1,805,980.

The last comparison can be used to demonstrate the point that the rates shippers pay in a captive market includes a captive market premium over and above the added U.S. flag capital and operating costs, including a reasonable return on invested capital. The U.S. flag vessel *Potomac* was built in 1945 and lengthened in 1962. Its capital and operating costs (payroll, fuel, etc.) can be conservatively estimated at \$20,800 per day. The Greek flag vessel *Common Venture* was built in 1971 and was purchased by its present owner in 1978. Estimated capital and operating costs are \$10,300 per day. Taking into account port time and voyage days, daily capital and operating cost differentials, the U.S. flag vessel should theoretically have cost the shipper about \$31 per ton above the world market rate charged by the Greek vessel. Instead, the added premium was \$82 per ton or a total of \$51 per ton captive market premium which had to be paid by U.S. taxpayers.

Question 4. How much revenue from agricultural exports would you estimate to have been lost because of excessive U.S. flag rates for Public Law 480 shipments?

Answer. In fiscal year 1981 moving 43 percent of Public Law 480 goods in U.S. vessels cost about \$90 million in subsidy money. In fiscal year 1982, a \$106.8 million is being obligated for the Title 1 program under Public Law 480. Although figures are not available for the Title 2 program, it is our understanding that an additional \$10 million could be added to the total estimated cost under Public Law 480.

If there had been no cargo preference requirement, those amounts could have been utilized for the purchase of farm commodities instead of excess shipping charges due to cargo preference.

Question 5. Do you agree that Public Law 480 agricultural exports represents a smaller fraction of farmer revenues than the transportation costs of those exports represent in revenue to U.S. flag carriers?

Answer. We do not have the revenue earnings of the U.S. flag carriers; therefore, I do not know what percentage of Public Law 480 agricultural exports these would represent. As far as agriculture is concerned, Public Law 480 exports, while a small percentage of the total exports, are very important. Many times it is Public Law 480 sales that set the tone of the market relative to prices, especially during periods of depressed prices such as we are having at the present time.

QUESTIONS OF SENATOR INOUE AND THE ANSWERS THERETO

Question. In your statement you cite a declaration of policy pertaining to cargo preference which was adopted by delegates of your federation.

Specifically, you oppose any cargo preference legislation that applies to agricultural products because U.S. cargo preference requirements make U.S. farm exports less competitive.

Since the freight cost differential for agricultural products which move on U.S. vessels under the Public Law 480 program are borne by the U.S. government, how does it make those products less competitive?

Doesn't the Federal government subsidize the producers of these agricultural products? Do these subsidies raise the price of our agricultural products in world markets?

Answer. Cargo preference, when applied to commercial sales of agricultural commodities as is the case under the maritime agreements with the Soviet Union and the People's Republic of China, makes us less competitive. These maritime agreements, which are companion agreements to the long-term grain agreements with those two nations, require that one-third of all purchases by the Soviet Union and the People's Republic of China move on American flag vessels at higher shipping rates. This requirement insures that U.S. farmers become residual suppliers of these markets because the Soviet Union and the Peoples Republic of China will purchase no more grain than the minimum quantity required in the agreements if they can obtain it from other supplying countries without cargo preference requirements. The Soviet maritime agreement has expired and the long-term grain agreement will expire September 30. Regarding the People's Republic of China, both the long time grain agreement and the maritime agreement are still in place.

Farm Bureau is also concerned over legislative proposals which would require that up to 40 percent of bulk cargo, including agricultural commodities, bought and purchased with cash or on commercial credit terms, be shipped on U.S. flag vessels. This would put us at a competitive disadvantage with other suppliers such as Canada, Argentina and Australia.

Concerning the Public Law 480 programs it is true that the ocean freight differential is paid by government funds. Those funds come from the Commodity Credit Corporation. Roughly \$100 million is used annually to defray the ocean differential resulting from the application of cargo preference to Title I Public Law 480 sales. Substantial sums are paid by the CCC to satisfy cargo preference requirements for Title II and Title III shipments. More commodities could be shipped and more hungry people could be fed if these funds were used to supply commodities shipped on vessels at world transportation market rates. If the maritime industry insists on cargo preferences for Public Law 480 shipments, the funds should come from the Maritime Administration's budget rather than from the Department of Agriculture's budget (CCC).

Agricultural support levels are below world market prices. The U.S. Congress has been careful not to support agricultural prices at levels that would interfere with world market prices. Therefore, the price support levels for U.S. agriculture commodities do not raise the price of our agricultural products in world markets.

Question. In your statement you say that cargo preference is contrary to our foreign policy, constitutes a policy of protectionism, and says in effect that our maritime industry is not capable of meeting foreign competition.

Inasmuch as our cargo preference laws have been the law of the land for many years, why do you feel they are contrary to our foreign policy?

As far as cargo preference laws saying that our maritime industry is not capable of meeting foreign competition, are you aware that 54 other countries have cargo reservation laws or other discriminatory practices?

Answer. We believe the cargo preference laws are contrary to our foreign policy because they run counter to established U.S. policy based on the principles of free trade. We also believe cargo preference laws have a severe negative effect on our foreign relations instead of promoting goodwill and international comity. Our country has entered into over forty treaties of friendship, commerce and navigation, which generally guarantee the ships of each party unlimited access to the import and export cargoes of the other party in both bilateral trades and trades with third countries. The GIMAs would eliminate this guarantee and place the U.S. in violation of its treaty commitments.

I am not in a position to comment on the 54 other countries having cargo reservation laws. Obviously, many of these countries have nationalized their merchant fleets and therefore they are being subsidized by their respective countries. As far as our own maritime industry meeting this competition is concerned, it would not be possible in world trade. High U.S. ship construction and manning costs make unsubsidized U.S. bulk, U.S. crewed vessels uncompetitive in world markets. Cargo shipped on a U.S. flag bulker will probably cost two to four times as much per ton as the world market rate.

Question. You state you favor repeal of the cargo preference law as it applies to P.L. 480 cargo because it is costly to the American taxpayer.

"I believe many of the agricultural subsidies are also costly to the American taxpayer, but I support them because these agricultural programs are in the national interest."

Isn't it in the national interest to have a strong merchant marine?

Answer. In the opinion of Farm Bureau, cargo preference laws do not increase security of supply to any substantial degree. While only about 3 percent of U.S. bulk imports and exports are carried in U.S. flag vessels, a much larger percentage is

carried in foreign flag vessels owned and controlled by American citizens and corporations. There is no basis to believe that most of these ships would not be available when needed in time of war or national emergency. Other vessels are controlled by U.S. entities under long-term charters. A majority of the remainder of the world's bulk fleet is owned and managed by nationals of our allies. Under these circumstances and considering the billions of dollars it would cost to build and maintain a merchant marine fleet, we do not believe it would be in the national interest to have a strong merchant marine fleet.

Question. In your statement you refer to the danger of increased transportation costs due to cargo preference pricing agricultural products out of the market.

Later you say the figures on the increased transportation costs of title II Public Law 480 cargo "are not readily available," but it is your understanding that an additional \$10 million could be added.

According to a report I have seen (a Presidential study), most of the title II shipments are packaged commodities that move in less-than-full shiploads on scheduled liner vessels and at published liner conference rates. The report then says that for shipments on scheduled liner vessels, the cost differential is minimal because U.S.-Flag and foreign liner conferences are identical, and most liner operators are conference members.

Would you say therefore that there is a danger of increased transportation costs in title II of the Public Law 480 program?

Answer. As I mentioned in my testimony, transportation costs under title II of Public Law 480 are not readily available. Although the figure of \$10 million in my statement may not appear significant, this amount when added to the \$106.6 million which is expected to be obligated for the title I program in 1982, does add up to millions of dollars which must be paid by American agriculture and American taxpayers in general. These funds could have been used to export greater quantities of food, thereby further promoting U.S. agriculture exports.

Question. In your statement, you say that Public Law 480 goods are moved in old, inefficient U.S. vessels of questionable security value and sustained only by the captive market of cargo preference.

I agree our dry-bulk fleet is virtually non-existent, and this does not bode well for national security.

But isn't this the point of cargo preference? Isn't making U.S. cargo available one of several incentives we must have to encourage the construction of a modern bulk fleet?

Answer. There are some who believe that a strong merchant marine is essential to our national security. This view is offered under the guise of national defense only to direct attention from its real purpose—to prop up a sick American maritime industry, which cannot begin to compete with its foreign counterparts.

Briefly, American crews cost three to five times more than foreign crews. U.S. shipbuilding costs compared to foreign yards are equally wide apart. A 110 thousand deadweight vessel built in the U.S. cost \$100 million. The same vessel built overseas cost 60 percent less.

As you know, under Public Law 480, the "Food for Peace" program, half of all grain shipped overseas must travel on American bottoms with American crews. As Congressman Paul McCloskey recently pointed out, freight rates to ship grain under Public Law 480 are \$49 per ton higher than in foreign vessels.

If the goal of developing a strong merchant marine fleet is seen as valuable, then we believe subsidies for ship construction would be an effective approach. Rather than increase the realm in which cargo preference operates, it would seem more appropriate to bite the bullet and call it into question across the board.

Question. Again the resolution adopted by your federation opposes the cargo preference provisions in our maritime agreements with the Soviet Union which require that 1/3 of its U.S. grain purchases be transported on U.S. flag-vessels; 1/3 on Soviet vessels; and 1/3 on third-flag vessels.

According to the information I have, unless there is such an agreement in effect, the Soviets buy goods on an FOB basis. That means the Soviets select the carrier, which, not surprisingly, is usually a Soviet vessel.

As it is, I don't believe that over the years, the U.S. has carried its 1/3 quota in the Russian grain trades.

Without these bilateral agreements, wouldn't we be even more vulnerable?

Answer. The kind of bilateralism incorporated in cargo preference laws would tend to increase American dependence upon individual sources of supply for vital commodities. Under a GIMA, individual supplying countries could not only threaten to embargo shipments to the United States, but could also make it more difficult to direct tonnage to carry cargo from alternative sources. Should a second source of a

commodity embargoed by one nation also be operating under a GIMA, difficulties would surface in using third country ships to move supplies from that second source.

In our opinion, bilateralism narrows the scope of world commerce, reduces productivity and slows down the flow of resources, goods and services. Since World War II, the U.S. has led the free world in seeking multi-lateral international economic relations. We cannot afford to renounce a policy of free trade—a policy which has made the U.S. the greatest commercial power in the world.

Senator GORTON. Thank you, Mr. Berg.

I am also going to have to leave to vote. We will have a brief recess until Senator Inouye returns. Why do you not stay right there until we begin the questioning.

[Recess.]

Senator INOUE [presiding]. Mr. Nelson, welcome. You may proceed with your testimony, sir.

Mr. NELSON. It is certainly a pleasure for me to be here today. My name is Wayne Nelson. I am president of the National Association of Wheat Growers. I really welcome the opportunity to share some of our comments on Government cargo preferences and its relationship to the Food for Peace program and the transportation of Public Law 480 commodities to recipient nations.

U.S. wheat farmers have strongly supported the Agricultural Trade Development and Assistance Act, better known as Public Law 480, since its inception in 1954. The program originally served as the basic authority for the sale of excess wheat and other farm commodities for foreign currency, and to implement emergency relief, but it has evolved into a major policy tool which can be used to reduce hunger in the world, to stimulate the development of overseas markets for U.S. farm exports, and to advance overall U.S. policy goals.

Wheat has been a leading commodity under Public Law 480 sales programs, and title I sales have accounted for as much as four-fifths of total shipments in recent years. However, total sales of U.S. wheat under Government programs have declined 80 percent since the early 1960's when Government wheat stocks were at record levels.

The use of the Public Law 480 program in developing foreign demand and expanding overseas market potential for U.S. wheat has brought enduring benefits to American farmers, and we are convinced that this program must remain viable if further gains are to be made in expanding U.S. wheat exports. Simply stated, the United States cannot boost its share of world wheat trade unless it is competitive, and the Public Law 480 program is important to maintaining and building the U.S. share of trade with developing markets.

Prior to World War II, two-thirds of world wheat exports went to developed market economies, but developing countries represent 50 percent of the world's imports, and nearly 40 percent of these imports are on commercial terms, with many of these markets having graduated from concessional to commercial status over the years. Public Law 480 has been important to this evolution, and it should continue to play a prominent role in U.S. trade with developing economies.

An integral feature of the Public Law 480 program is the U.S.-flag requirement. At least 50 percent of the tonnage purchased

under title I must be carried in privately owned U.S.-flag vessels, to the extent that such vessels are available, and an ocean freight differential subsidy is paid by the U.S. Government, through the USDA's Commodity Credit Corporation, to offset the higher cost of U.S. vessels participating in this trade.

The National Association of Wheat Growers recognizes the necessity of a strong U.S. maritime industry. We do feel, however, that the cost of financing U.S. vessel participation in Public Law 480 trade could more appropriately be assigned to the Maritime Administration which conducts other programs that aim to benefit the U.S. maritime industry.

This alone could make as much as \$85 million in additional funding available for programing of wheat and other Public Law 480 commodities. I think there was \$86.7 million spent on it this last year which could otherwise have been available for Public Law 480 food shipments.

U.S. wheat farmers are fortunate to have a special organization, the U.S. Wheat Associates, which is dedicated to the mission of developing and expanding wheat exports through a variety of programs conducted by 12 regional foreign offices in cooperation with USDA's Foreign Agricultural Service. There have been some problems in the past, that U.S. Wheat has become aware of, stemming specifically from U.S. cargo preference requirements. The AID concessional food shipments are also subject to cargo preference requirements. Recently, we understand, these cargo preference requirements caused the cancellation of the sale of 70,000 metric tons of grain contracted for purchase by the Egyptian Government. The Egyptians would have been required to pay premiums of \$60 to \$82 per ton for the U.S.-flag vessels required to transport the purchase.

Under the AID program, the Government does not subsidize the freight differential. This is ironic from a practical standpoint and from the point of view of American foreign policy. On the one hand we have determined that the Egyptians are in need of American assistance to assure food supplies to their people. Yet on the other hand we ask them to pay a shipping premium which ultimately prohibits the food sale.

Overall, we do not seek program changes that would injure the U.S. maritime industry, but we do wish to see steps taken which can expand the quantities of wheat and other commodities made available under Public Law 480 as well as the AID programs, and provide for their efficient transportation and discharge.

Thank you very much for the opportunity. I would be glad to try to respond to any questions at the appropriate time.

[The statement follows:]

STATEMENT OF WAYNE K. NELSON, PRESIDENT, NATIONAL ASSOCIATION OF WHEAT GROWERS

Mr. Chairman and Members of the Subcommittee: The National Association of Wheat Growers welcomes this opportunity to comment on government cargo preferences and its relationship to the Food for Peace program and the transportation of Public Law 480 commodities to recipient nations. I am Wayne K. Nelson, president of the National Association of Wheat Growers, and I am a wheat farmer from Winner, South Dakota.

U.S. wheat farmers have strongly supported the "Agricultural Trade Development and Assistance Act," better known as Public Law 480 since its inception in

1954. The program originally served as the basic authority for the sale of excess wheat and other farm commodities for foreign currency, and to implement emergency relief, but it has evolved into a major policy tool which can be used to reduce hunger in the world, to stimulate the development of overseas markets for U.S. farm exports and to advance overall U.S. policy goals.

Wheat has been a leading commodity under Public Law 480 sales programs, and title I sales have accounted for as much as four-fifths of total shipments in recent years. However, total sales of U.S. wheat under government programs have declined 80 percent since the early 1960's when government wheat stocks were at record levels.

The use of the Public Law 480 program in developing foreign demand and expanding overseas market potential for U.S. wheat has brought enduring benefits to American farmers, and we are convinced that this program must remain viable if further gains are to be made in expanding U.S. wheat exports. Simply stated, the U.S. cannot boost its share of world wheat trade unless it is competitive, and the Public Law 480 program is important to maintaining and building the U.S. share of trade with developing markets.

Prior to World War II, two-thirds of world wheat exports went to developed market economies, but developing countries today represent 50 percent of the world's imports and nearly 40 percent of these imports are on commercial terms, with many of these markets having graduated from concessional to commercial status over the years. Public Law 480 has been important to this evolution, and it should continue to play a prominent role in U.S. trade with developing economies.

An integral feature of the Public Law 480 program is the U.S. flag requirement. At least 50 percent of the tonnage purchased under title I must be carried in privately owned U.S. flag vessels, to the extent that such vessels are available, and an ocean freight differential subsidy is paid by the U.S. government, through the USDA's Commodity Credit Corporation, to offset the higher cost of U.S. vessels participating in this trade.

The National Association of Wheat Growers recognizes the necessity of a strong U.S. maritime industry. We do feel, however, that the cost of financing U.S. vessel participation in Public Law 480 trade could more appropriately be assigned to the Maritime Administration which conducts other programs that aim to benefit the U.S. maritime industry. This alone could make as much as \$75 million in additional funding available for programming of wheat and other Public Law 480 commodities, while ameliorating the problem of maintaining adequate funding for Public Law 480 commodity sales in future years.

U.S. wheat farmers are fortunate to have a special organization, U.S. Wheat Associates, which is dedicated to the mission of developing and expanding wheat exports through a variety of programs conducted by twelve regional foreign offices, in cooperation with USDA's Foreign Agricultural Service. U.S. Wheat Associates recently directed our attention to a technical problem involving foreign wheat marketing and the Public Law 480 cargo preference requirement.

In Sri Lanka, a Public Law 480 tender was announced for wheat under protest. We understand the reason to be that U.S. vessels participating in this trade under the cargo preference requirement were not compatible with the modern unloading system that has been erected. This modern system employs pneumatic, high-speed unloading equipment and works efficiently only at full capacity and with bulk carriers. Use of other vessels, such as twin-deckers and tankers with relatively small, awkwardly located compartments not only slow the unloading operation and increase costs, they cause increased wear on equipment. This situation also wears heavily on the goodwill that has been established with this customer and the United States' future trading relationship.

AID concessional food shipments are also subject to cargo preference requirements. Recently, we understand, these cargo preference requirements caused the cancellation of the sale of 70,000 metric tons of grain contracted for purchase by the Egyptian government. The Egyptians would have been required to pay premiums of \$60-82 per ton for the U.S. flag vessels required to transport the purchase. Under the AID program, the government does not subsidize the freight differential. This is ironic from a practical standpoint, and from the point of view of American foreign policy. On the one hand, we have determined that the Egyptians are in need of American assistance to assure food supplies to their people. Yet, on the other hand, we ask them to pay a shipping premium which ultimately prohibits the food sale.

Overall, we do not seek program changes that would injure the U.S. maritime industry, but we do wish to see steps taken which can expand the quantities of wheat and other commodities made available under the Public Law 480 program, as well as the AID programs, and provide for their efficient transportation and discharge.

Thank you for this opportunity to present the views of the National Association of Wheat Growers. I will be pleased to respond to any questions at the appropriate time.

Senator INOUE. Thank you very much, Mr. Nelson.

I would like to begin with Mr. Berg.

On the first page of your statement you cite a declaration of policy relating to cargo preference which was adopted by your delegates.

Mr. BERG. Yes, sir.

Senator INOUE. Specifically, you oppose any cargo preference that applies to agricultural products because you maintain that these cargo preference requirements would make U.S. farm exports less competitive.

Is that correct?

Mr. BERG. Yes, sir.

Senator INOUE. Since the freight cost differential for agricultural products which move on U.S. vessels under Public Law 480 are borne by the U.S. Government, how does it make those products less competitive?

Mr. BERG. Well, Senator, I believe the case that Mr. Nelson just pointed out in the Cargill deal, we lost 70,000 tons of U.S. corn by cargo preference laws. The Cargill, or rather, the Arab Republic of Egypt wanted to buy 125,000 tons of corn. When they ended up with the rules and regulations governing cargo preference, they only purchased 55,000 tons of corn from us.

These reduced costs will be passed down on the market scale to the farmers and to the producers. They are not going to be handled on the foreign market.

Senator INOUE. Is it not true that the Egyptians pay for that grain through American grants?

Mr. BERG. I am not sure how they paid for the grain.

Senator INOUE. It was under the AID program, was it not?

Mr. BERG. Under the AID program, yes.

Senator INOUE. We could have insisted, but for some reason, AID did not insist.

Mr. BERG. Well, they requested—they did request, I understand, the Arabs requested a waiver from AID, and this was turned down by MarAd because they thought it was a reasonable request. This is where we were charging \$64 or \$84 and \$102 more per ton than the foreign-flag vessels.

Senator INOUE. Do you support subsidies for agricultural goods?

Mr. BERG. Well, I believe the farmers—I do not believe that I support them, but there are some subsidies provided for agricultural goods, yes.

Senator INOUE. Those subsidies are borne by American taxpayers, I presume.

Mr. BERG. I assume they are.

Senator INOUE. Does that not raise the price of our products in the world markets?

Mr. BERG. Perhaps it does.

Senator INOUE. Should we take away these subsidies because they increase the cost of our exports?

Mr. BERG. Well, as far as the Farm Bureau is concerned, Senator, we are doing everything we can to get out from under the sub-

sidy program. We are doing what we can to resolve that situation, but I am not so sure that there is any correlation between agricultural subsidies in the U.S. merchant marine and cargo preference. I think cargo preference was instituted as a form of national security and as a form of helping the merchant marine in their job situation. They were losing jobs to foreign-flag vessels. I just do not think there is any correlation, in my opinion.

Senator INOUE. Are you concerned that U.S. vessels carry less than 3 percent of our cargo?

Mr. BERG. Yes, we are concerned about that. I am not so sure it is not a situation that they did not create themselves. If foreign vessels can come into this country and haul our corn for \$28 a ton as opposed to \$84 a ton, that is pretty hard to justify.

Senator INOUE. What companies were these?

Mr. BERG. Cargill, Bunge & Dreyfuss.

Senator INOUE. I am talking about the foreign vessels.

Mr. BERG. I am not sure I know that.

Senator INOUE. You said it was \$28 a ton. What companies were they?

Mr. BERG. Which foreign company was it? I am not sure about that.

Senator INOUE. Were they all nationally owned companies?

Mr. BERG. As far as I know they were.

Senator INOUE. Do you think that is fair competition?

The Soviets have no free enterprise. I am certain you agree with me.

Mr. BERG. Yes, sir.

Senator INOUE. They have no stockholders. The profit motive is not that important.

Mr. BERG. Well, that is the situation that happened, and that is how we happened to lose. The American farmers lost 70,000 tons of corn. This was not something that just developed yesterday. It was not something that developed 3 months ago when that sale went through. It is something that has been happening to our merchant marine and to our shipping ocean transportation interests for some time.

Senator INOUE. A few years ago many of the citizens of the United States were deeply concerned with the embargo on oil. I am certain you remember the specter of cars lined up for miles in front of gas stations.

Mr. BERG. I was there.

Senator INOUE. That was just a simple oil embargo.

With American vessels carrying 3 percent of our cargo or less, and with each passing month increasing numbers of our cargo being carried by national companies or controlled carriers, for most part the Soviets, what do you think would be the effect if the Soviet Union together with the bloc countries decided to boycott our ports? Would that have any effect upon your members?

Mr. BERG. Yes, it would, Senator. It would have a very severe impact on our members because we do use a great deal of petroleum. I would only assume we would have to then rely on our NATO countries, our friends, you might say, to help us. Maybe that is the whole purpose of Public Law 480, the Food for Peace program.

Senator INOUE. Do you think we can always rely upon our NATO friends to come to our aid?

Mr. BERG. Not always.

Senator INOUE. But you are not too concerned?

Mr. BERG. Yes, sir, we are concerned, and there is nothing—there is very little the American agricultural community can do to build up our merchant marine. I think that as previous testimony here this morning said, the American merchant marine did a tremendous job in World War II. I happened to be there at that time. They did a tremendous job during the Korean conflict as well as during the Vietnam conflict. But as I said before, I think they have pretty well priced themselves right out of the market.

There are several reasons for that, I suppose, the higher salaries, the liberal vacation plans, and what have you.

Senator INOUE. I believe you also adopted a resolution that opposed the cargo preference provisions in our maritime agreements with the Soviet Union which require that one-third of the Soviet grain purchases be transported on U.S. vessels, is that correct?

Mr. BERG. Yes, sir, that is what we have in our policy.

Senator INOUE. What do you think would be the effect if we did away with these requirements?

Mr. BERG. Well, we would prefer to do away with—to repeal the cargo preference concept altogether. We have stated that we think Senator Dixon's bill, S. 2511, is a step in the right direction because it does provide shipments at the lowest possible cost. But as far as the Farm Bureau is concerned, we have never been in favor of cargo preference.

Senator INOUE. What would be the effect if we did away with this cargo preference as far as the grain sale is concerned?

Mr. BERG. I think it would help to improve export of farm commodities.

Senator INOUE. I think the effect would be that all the grain would be shipped on Soviet ships or Soviet bloc ships, is that not correct?

Mr. BERG. Well, it would be much more competitive. Our own industries, other industries, if they want to haul our exports, would have to come in with some competitive prices.

Senator INOUE. Do you think at the present time it is conceivably possible that we can compete in the Soviet grain trade without these preference laws?

Mr. BERG. Our own merchant marine?

Senator INOUE. Yes. I am certain you are aware that the men who man these Soviet ships are all employees of the Government.

Mr. BERG. Yes, sir, I am, in the case of the Soviet Union.

Senator INOUE. And it comes under the control of an admiral.

Mr. BERG. I am aware of that. It would be difficult to compete with them. Perhaps the only answer would be for the merchant marine to come under the Defense Department or some such agency as that. If we are going to use the merchant marine for national security purposes, then maybe that is where it belongs, under the Defense Department.

Senator INOUE. I believe it would be safe to say that every country subsidizes its shipping lines, whether they own them or not.

Second, as a matter of record, I would say that besides the United States there are 54 other countries that have similar or much stricter cargo preference laws. We did not initiate the cargo preference laws, as you are aware.

Mr. BERG. I am aware of that.

Senator INOUE. We did that in reaction, but still you think that is wrong?

Mr. BERG. Yes, sir, I am aware.

Senator INOUE. I have several other questions I would like to submit to you for your consideration and response, and I am certain the chairman has several himself.

Mr. Nelson, on the first page of your statement you say that the United States cannot boost its share of world wheat trade unless it is competitive.

How do you propose that we be competitive, sir, taking the real world as it is today?

Mr. NELSON. How we can become more competitive?

Senator INOUE. Yes. Take a specific example. At the present time our laws provide for competitive bidding in the carriage of mail by surface transport across the seas.

Mr. NELSON. Yes.

Senator INOUE. A portion of our mail across the Atlantic is carried by a steamship company owned by the Government of Poland.

Do you think realistically our companies can outbid them?

Mr. NELSON. On a competitive basis, you are saying because they are essentially held by governments and they are subsidized from their own governments as an industry that we really cannot compete with them?

Senator INOUE. Yes.

Mr. NELSON. But on the other hand, we also have the problem of other countries being able to sell their grain at a laid-in price, at a reduction from our laid-in price because of our shipping costs compared with their shipping costs. The problem has to be addressed regarding the fact that these countries, whether they have nationalized shipping companies or not, can still deliver grain at a cheaper price than we can, and that makes us less competitive.

Senator INOUE. In the case of the Soviet purchase of grain, would you say that we were doing them a favor or they were doing us a favor?

Mr. NELSON. When they purchase grain from us?

Senator INOUE. That is right.

Mr. NELSON. I think that any time we can increase our exports to any country of the world we are doing the U.S. farmer a favor. I feel that we are not doing the Soviet Union any favors by trying to sell more grain to them. We are selling them grain and, hopefully, will in the future for hard currency that they have to pay for. The Soviet economy is having problems at the moment, and paying out hard currency for the purchase of grain imports certainly cannot be helping their economic situation. By the same token, we are helping our U.S. farmers by selling grain, whatever its destination.

Senator INOUE. Am I to assume from your testimony that you agree with Mr. Berg that the cargo preference law should be repealed?

Mr. NELSON. We feel that funding of the cargo preference requirements should be switched from the Public Law 480 program to the Maritime Administration.

That would free up over \$80 million for additional food sales under Public Law 480 and not do away with the cargo preference altogether.

Senator INOUE. Thank you very much.

Mr. NELSON. Thank you.

Mr. BERG. Thank you, Senator.

Senator INOUE. Our next panel consists of the executive director of the Joint Maritime Congress, Mr. David Leff, and the executive director of the Transportation Institute, Mr. Peter Luciano.

Welcome, gentlemen.

Mr. Leff, or Mr. Luciano, who proceeds first?

STATEMENTS OF DAVID LEFF, EXECUTIVE DIRECTOR, JOINT MARITIME CONGRESS; AND PETER J. LUCIANO, EXECUTIVE DIRECTOR, TRANSPORTATION INSTITUTE

Mr. LEFF. Good morning. With your permission, Senator, I would like to submit my statement and just point out some highlights.

Senator INOUE. Both of your statements will be made a part of the record in total.

Mr. LEFF. Thank you.

Although Marad was given the authority to promulgate regulations to enforce Public Law 664, Government agencies' resistance to its interpretation led to two opinions issued by the Attorney General in the 1960's. These decisions drew a distinction between commercial and concessional sales and concluded that Public Law 664 applies when a transaction is concessional or a giveaway but it has no application to commercial sales.

As you have already discussed earlier with the Agriculture witnesses, this has led to many problems. The situation obviously has to be rectified. If this committee would consider a legislative change, we would suggest that the 1954 act be amended so that the conditions under which Government agencies must comply with the 50-percent requirement are clearly delineated and that these conditions include grants, loans, credits, advance of funds, cash transfers, guarantees, and sales of commodities at less than U.S. fair market value.

I would like to point out that in late 1980 a group of maritime industry people met at the Department of Agriculture with then Secretary Bergland and members of his staff. At the conclusion of that meeting, it was agreed that we would set up a task force whereby these kinds of problems and other maritime issues would be resolved before they reached the point of the New Zealand butter type situation.

I was chosen as the spokesman for the maritime group. My counterpart was a Mr. James Starke, whose position is Deputy Under Secretary for International Affairs. To the best of my knowledge, Mr. Starke is still in that position under Secretary Block. No such meeting has ever been held. I have called him I do not know how many times, requesting a meeting, and to put it simply the re-

sponse was, do not call me, I will call you. We have yet to have a meeting.

I think if a dialog like that was started, it might eliminate a lot of these problems. At least we could air our differences in the context of looking for a constructive solution. I thought the idea was a good one, but as I said, it has never been pursued or followed up and certainly not for lack of persistence on my part.

We believe at the Joint Maritime Congress that whenever Government money is involved in generating ocean-borne movements, cargo preference is warranted. The expenditure is worth the security gained by having a healthy maritime industry. The crisis in the Falkland Islands, where nearly 50 British merchant vessels participated, brings home the importance of that policy to us. Policies such as the Cargo Preference Act help to insure that the United States, like Britain, will have adequate sealift when needed. We also believe that Government support of the maritime industry should be for the benefit of the U.S. taxpayer and therefore should be administered in a fashion that is most cost effective.

Apparently Senator Dixon had this in mind when he introduced S. 2511, a bill which requires cargo preference commodities to be carried on vessels offering the lowest landed cost. We do not believe this bill would accomplish the goal of insuring that cargoes financed by the Government are shipped at the lowest cost to the U.S. taxpayer.

The Senator claims that the requirement would save the taxpayer money because the differential paid by the Government would be lower, yet the only Government program that pays a differential is the Public Law 480 program. And as the Senator has acknowledged, this program already operates according to the rules prescribed by Mr. Dixon. The purpose of his bill may be to address the problems of the Great Lakes, because lowest landed cost takes into account the cost of the land portion of the export shipment as well as the ocean rate. If a commodity originates in the Midwest, for example, and is bound for Western Europe, the land portion of the total cost if moved through the Great Lakes is obviously lower than the land cost if moved through, let us say, Baltimore. However, if there is no U.S.-flag service in the Great Lakes, the low land cost is meaningless because the bill states that the requirement is mandatory only when such vessels are available.

It is questionable in any case whether increasing traffic through the Great Lakes should be a national policy goal. In the winter months, the St. Lawrence Seaway freezes, rendering the entire area useless for foreign trade. If military cargo, for example, were routed through the Great Lakes, the freezing would hamper the movement and thereby jeopardize our national security. We do not believe that Senator Dixon's bill is the best way to achieve cost efficiency in the area of cargo preference.

Now with regard to the Public Law 480 program, we are aware of the high cost of using old vessels in the Public Law 480 trade. The reason that such old vessels are used in this trade is that the U.S. bulk fleet is comprised of only 16 ships, of which 11 are small vessels over 30 years of age. Obviously, the older the ship, the more manning it takes, and the lower technology it has. Consequently, the cost of operation is higher.

Furthermore, these vessels have the least effect on having a merchant fleet that is of great value for national security purposes. Although these expensive ships made the Public Law 480 program a target for attack in recent years, nevertheless, there are still benefits from the cargo preference application that outweigh the cost associated with it. The Public Law 480 program offers a relief to ships when commercial cargoes are not obtainable during economic downturns, during seasonal fluctuations, but more important, the psychological effects and political benefits of U.S. ships delivering U.S. grain to nonaligned and Third World nations vulnerable to Communist influence are obvious. These psychological effects should not be underestimated.

Back to the other point, though. Our goal should be to construct a modern, highly efficient U.S. bulk fleet. To this end, we believe that Public Law 480 cargo preference should apply to vessels that are less than 20 years of age or which, if older than 20 years of age are owned or operated by companies who agree to approved vessel replacement programs with the Maritime Administration.

Savings will be realized because larger and more technologically fuel-efficient ships require smaller crews and lower operating costs. We have seen this trend in the 14 liner vessels that U.S. Lines are scheduled to build in Korea. These ships will have crew sizes of about 20 men, a figure that is competitive with the ships of any fleet in the world today.

Additionally, these ships will make much more economical use of fuel, an important consideration when you consider the fact that fuel is the single most expensive cost of operating a vessel today, not the crew. Furthermore, as the U.S. dry bulk fleet expands to carry a growing share of the U.S. dry bulk trade, competition among U.S.-flag carriers will become more intense resulting in still lower transportation costs.

This concludes the statements that I wanted to make. I wish to thank you for your time. I do believe that the Public Law 664 law is a law without which the U.S.-flag maritime industry would be a fraction of its current size, a size that civilian and military analysts feel is inadequate in the face of the maritime and geopolitical challenges we face today.

I will be happy to answer any questions. Thank you.

[The statement follows:]

STATEMENT OF DAVID A. LEFF, EXECUTIVE DIRECTOR, JOINT MARITIME CONGRESS

Thank you Mr. Chairman and members of the subcommittee. I am David A. Leff, Executive Director of the Joint Maritime Congress. I appreciate the opportunity to come before this subcommittee to review and discuss a law of crucial importance to the United States maritime industry. The adoption of the Cargo Preference Act in 1954 was a sign of this country's acknowledgement that exports and imports financed by American taxpayers should be carried by American owned, operated, and manned vessels. But as you well know, the justification for the act goes beyond the policy that U.S. tax dollars should be expended for U.S. rather than foreign services. Equally important is the maintenance of a strong merchant fleet so that we can be assured of adequate sealift in times of national crisis. The enforcement of Public Law 664 contributes to this goal.

Clearly, the United States Government is not alone in passing laws and regulations designed to bolster an industry whose fleet support capabilities cannot be overstated. A report issued by the Maritime Administration in February of this year shows that as many as 54 countries, including both developed and developing nations, employ some form of cargo preference for their private maritime fleets. Quite

often these policies apply to commercial as well as Government-generated cargo. Common among each of these countries is the belief that benefits of building, protecting, and maintaining their merchant fleets will accrue to their entire nation.

It is apparent from several recent incidents involving the ocean movement of government-generated cargo that some agencies within the federal bureaucracy either do not share the same commitment to sustaining our merchant fleet or are unclear as to which programs fall within the scope of the Cargo Preference Act.

It is our contention that the intent of the Cargo Preference Act must be made clear whether it be through an executive order or a legislative change. Our patience is wearing thin listening to one agency after another quarrel with the Maritime Administration over interpretation of the Act. Although Marad was given the authority to promulgate regulations in order to enforce Public Law 664, government agencies' resistance to its interpretation led to two opinions issued by the Attorney General in the 1960's. These opinions, basically drawing a distinction between "commercial" and "concessional" sales, concluded that Public Law 664 clearly applies when a transaction involves foreign assistance giveaways or concessional sales but has no application to commercial sales. The problem with these opinions, however, is that they focused on cases in which credit was extended to private domestic exporters only. Consequently the situation in which credit is extended directly to a foreign government was never addressed. This omission became apparent in the 1981 Commodity Credit Corporation-New Zealand butter deal. The \$.70 a pound that the New Zealand dairy board paid was determined by the Department of Agriculture to be fair market value even though it was well below that which American consumers were paying for butter at the time. The Department of Agriculture, ignoring the decision of the Maritime Administration to the contrary, concluded that the sale was not subject to cargo preference because it was a commercial transaction.

There are many other instances, Mr. Chairman, in which the Maritime Administration's authority to enforce compliance with the law is simply disregarded and undermined by government agencies.

For example, the General Services Administration refused to consider any terminals suited to U.S.-flagships for the delivery of bauxite from Jamaica for the strategic stockpile. In addition, the Agriculture Department consistently refuses to defer to the Maritime Administration's position that many of the Commodity Credit Corporation's programs are subject to cargo preference due to their concessionary nature.

This situation clearly needs to be rectified. If the Committee will consider a legislative change, we suggest that the 1954 Act be amended so that the conditions under which government agencies must comply with the 50 percent requirement are clearly delineated. These conditions should include grants, loans, credits, advance of funds, cash transfers, guarantees, and sales of commodities at less than U.S. fair market value.

We believe that whenever government money is involved in generating ocean-borne movements, cargo preference is warranted. The expenditure is certainly worth the security gained by having a healthy maritime industry. We need only to look at the current crisis in the South Atlantic to see the assistance that an active merchant fleet can offer. Nearly fifty of the vessels participating in Britain's Falkland Islands operation are commercial ships. Policies such as the Cargo Preference Act help to insure that the United States, like Britain, will have adequate sealift when it is needed.

The Joint Maritime Congress believes that government support of the maritime industry should be for the benefit of the U.S. taxpayer and, therefore, should be administered in a fashion that is the most cost-effective possible. Apparently Senator Dixon had this in mind when he introduced S. 2511, a bill which requires cargo preference commodities to be carried on vessels offering the "lowest landed cost." We do not believe, however, that this bill would accomplish his goal of insuring that cargoes financed by the Federal Government are shipped at the lowest cost to the U.S. taxpayer. The Senator claims that this requirement would save the taxpayer money because the differential paid by the government would be lower. Yet only one government program requires that a differential be paid for the cost of U.S. shipping. That program is Public Law 480, a program which already operates with this principle in mind as the Senator has acknowledged.

All other programs or activities receiving government financing are simply subject to the cargo preference requirement and consequently it is up to the loan or grant recipient to spend the money the best way seen fit. Whether the recipient be a government entity or a private business, it generally receives the funds in lump sum so that the most logical way to spend the money is to minimize the costs of the particular project. It would not make sense for the loan recipient to look for the

most expensive means to ship the cargo and have little left to purchase the goods. The requirements of Senator Dixon's bill are already dictated by economics and standard commercial practices.

Mr. Dixon asserts in his remarks on the bill in the Congressional Record that the cargoes generated by the Eximbank are not shipped in this fashion. Although it is true that the importers receiving Eximbank financing do not solicit bids, it does not necessarily follow that these importers do not seek the lowest landed cost. They have every reason to want to ship their purchases in the most economical way.

Perhaps it would seem harmless to put into law what is by and large practiced by government financed programs. However, implementation of the law would require an enlarged bureaucracy to the extent that every agency which generates cargo would have to establish a means of monitoring compliance. This in turn would require more personnel, resulting in higher costs to the government, which is exactly what the bill seeks to avoid.

The purpose of the bill may be to address the problems of the Great Lakes because "lowest landed cost" takes into account the cost of the land portion of export shipment as well as the ocean rate. If a commodity originating in the Midwest, for example, is bound for Western Europe, the land portion of the total cost if moved through the Great Lakes is lower than the land cost if moved through the port of Baltimore. However, if there is no U.S.-flag service in the Great Lakes, this low land cost is meaningless because the bill states that this requirement is mandatory only "whenever such vessels are available."

It is questionable, in any case, whether increasing traffic through the Great Lakes should be a national policy goal. In the winter months the Saint Lawrence seaway freezes rendering the entire area useless for foreign trade. If military cargo, for example, were routed through the Great Lakes, the freezing would hamper the movement thereby jeopardizing our national security.

We do not believe that Mr. Dixon's bill is the best way to achieve cost efficiency in the area of cargo preference. We are aware, nonetheless, of the high cost of using old bulk vessels in the Public Law 480 trade. As you know, Public Law 480 is the major program through which the United States provides food assistance to other nations. The food is donated through low interest loans and grants and is generally of bulk variety. The reason that such old vessels are used in this trade is that the U.S. bulk fleet is comprised of only 16 ships of which 11 are small vessels over 30 years old. The consequence is that when cargo preference applies to such vessels, very little gain is made towards the national goal of a modern U.S.-flag Merchant Marine.

Although the use of these expensive ships has made the Public Law 480 program a target for attack in recent years, I wish to emphasize that the benefits gained from cargo preference application to the program far outweigh the costs associated with it. The Public Law 480 program offers relief to ships when commercial cargoes are not obtainable, during economic downturns, and during seasonal fluctuations. Moreover, the psychological effects and political benefits of U.S. ships delivering U.S. grain to non-aligned and Third World Nations vulnerable to Communist influence are obvious, and should not be underestimated.

Nonetheless, our goal should be to construct a modern highly efficient U.S. bulk fleet. To this end, we believe Public Law 480 cargo preference should apply to vessels that are less than 20 years old, or which if older than 20 years, are owned or operated by companies that agree to approved vessel replacement programs with the Maritime Administration.

Savings will be realized because larger, more technically and fuel efficient ships require smaller crews and lower operating costs. We have already seen this trend in the 14 ships scheduled to be built in Korea for United States Lines. These ships will have crew sizes of about 20 men, a figure that is competitive with ships of any fleet in the world today. Additionally, these ships will make much more economical use of fuel, an important consideration when today's fuel costs surpass wages in most cases as a factor in operating costs. Furthermore, as the U.S. dry bulk fleet expands to carry a growing share of the U.S. dry bulk trade, competition among the U.S.-flag carriers will become more intense resulting in still lower transportation costs.

This concludes my formal testimony. Again, I thank you for the opportunity to express my concern and support for Public Law 664—a law without which the U.S.-flag maritime industry would be a fraction of its current size, a size that civilian and military analysts feel is inadequate in the face of the maritime and geopolitical challenge we face today. I will be happy to answer any questions.

Senator GORTON [presiding]. We will go on at this point to Mr. Luciano.

Mr. LUCIANO. Thank you very much, Mr. Chairman and members of the committee. With your permission, I would ask that my prepared statement be entered into the record.

Senator GORTON. It will, and we would appreciate you summarizing.

Mr. LUCIANO. By way of background, the Transportation Institute is a research and educational organization dedicated to promotion of the American-flag merchant marine. Of our more than 170 member companies, a substantial number are involved in the carriage of U.S. Government preference cargoes.

As you have heard from earlier witnesses, the cargo preference program is extremely important to U.S.-flag carriers in both the liner and the bulk sectors of the American fleet. A large part of the reason for that is simply that a cargo policy in one form or another is the single most effective sort of supportive policy that a government can pursue.

As Senator Inouye has pointed out this morning, more than 50 countries have cargo preference laws in one form or another. Most of them apply to commercial cargoes as well as to government-generated cargoes. In the United States, beyond the cargo preference law, there is the Jones Act, which is an extremely effective cargo policy, and which in fact helps to support approximately half of the U.S.-flag merchant fleet, including the only two passenger liners under U.S. flag.

The operating differential subsidy program has been rather successful for a number of years in helping to maintain the U.S. fleet. In fact, about a third of the U.S. fleet is supported in part by the ODS program, but there is a major flaw in our naivete in this country with respect to what other countries' objectives are.

That is, that a number of major maritime countries and most of our major competitors have determined what percentage of their own cargo they want to carry in their national flagships, and they will carry that percentage regardless of what cost reductions or other competitive attempts are made by U.S.-flag operators. Regardless of how efficient we become, regardless of what costs we are able to reduce, other countries will carry in their own ships those percentages that they have designated.

We only have to look at some of the major nations of the world, with the Soviets carrying more than half their cargo in national flagships, Japan 40 percent, most of our NATO allies in the range of 20 to 40 percent of their cargo. The point is that as these other countries have shown us, a cargo policy is the only effective means of bolstering a merchant fleet, and the only means of guaranteeing that you will have one if you want one.

Besides the Jones Act, as I have mentioned, the cargo preference laws are virtually the only cargo policy of the United States. It is not a huge program. Approximately 1.3 percent of U.S. foreign ocean-borne commerce is accounted for by preference cargoes, and yet, there are, despite this rather relatively small amount of cargo, there are many critics of the program, as you have heard this morning from the Farm Bureau, the U.S. Department of Agriculture, and so forth.

We can understand the position of the Farm Bureau to some extent. They are suffering disastrous economic conditions. They

face high interest rates, failing markets, and so on, as does the U.S.-flag merchant marine. They also are hampered in their competitive position by the fact that foreign governments subsidize extensively the agricultural exports of their own countries. But we see precisely the same thing in the U.S. merchant marine. The parallels are so close as not to bear further elaboration.

But the point is that a solution to the farmers' problem does not lie in eliminating the U.S.-flag merchant marine. The solution to this problem is made more difficult by the fact that we are in terrible economic times; we live under economic conditions which damage virtually every sector of the U.S. economy.

In such a situation, it is very tempting to play a zero sum game and say that what is given to one sector will be taken away from another, but I do not think that addresses the problem of either the farmers or the merchant marine. I think a comprehensive solution is one that includes all the key sectors of the economy.

It is a little inconsistent also in some of the objections raised by the opponents of the cargo preference programs that while many of them object to paying U.S.-flag costs on ocean shipping, there is no such objection to paying U.S. costs for the use of other sectors of the American economy. They pay the cost of U.S. railroads, 100 percent. We have in effect a 100-percent cargo preference policy for American railroads.

There is no objection to paying U.S. trucking costs and so forth in many other sectors of the American economy which either by law or by practice are required to be used 100 percent by farmers and by other groups objecting to cargo preference laws. But at the edge of the dock, we draw the line and differentiate between the U.S. fleet and other sectors of the American economy. I do not think that is consistent, and I do not think it is a reasonable approach to a difficult policy question.

The U.S. merchant fleet does not enjoy the protection of tariffs or of quotas or of many of the other protectionist devices which are used—and properly so—to develop and promote other American industries.

If I might address the question of cost, which I know has consumed much of this committee's time, usually the cost differentials that are cited in these comparisons are the worst imaginable examples. I believe that in some cases isolated cost differentials are cited which are the result of the confluence of several factors which present an inaccurate picture. Let me be more specific on that.

As has been pointed out by earlier witnesses, frequently a preference cargo is carried by an American operator from the United States to some foreign country, and there is no return cargo available. As a result, 100 percent of that voyage cost must be covered by the operator in his rate in order simply to stay financially whole.

That cost, which sometimes can be quite high, is then contrasted with a foreign quote which might be half of the U.S. quote. But that foreign quote is able to be as low as it is for one very good reason in many cases. That is because the rate they are quoting is for a cargo of opportunity. It is a windfall cargo.

They have delivered a cargo to the United States, a commercial cargo, a cargo perhaps guaranteed by their own Government's cargo preference law, and they are sailing back in ballast, and any

rate they receive on that return trip is pure gravy, and it provides an attractive economic package to them.

Therefore, on the one hand, we compare a U.S. rate which must cover both legs of the voyage for simple economic reasons, and at the same time we contrast that with a foreign rate which is a pure windfall rate, and anything above zero would be attractive to the foreign company.

So, I think those cost differentials are misleading and inaccurate. The fact is that the United States generates about 25 percent of world trade. We are an extremely attractive target for shipping companies of other nations. They can deliver cargoes here and move cargoes out of this country and enjoy many economic advantages which we gratuitously hand out unilaterally without condition, without proviso, and we take advantage of none of that leverage afforded us by that trade.

Part of the problem with the preference program has to do in the first instance with the behavior of complex institutions. What you have seen this morning here from the government witnesses is an example of what I am talking about. You in the Congress have an overview of what the multiple purposes of a program such as cargo preference can serve. You realize a single program can achieve several national objectives.

Senator Gorton, as you pointed out on the floor of the Senate last year, I believe, during a cargo preference debate, the Public Law 480 program is in effect a subsidy program for farmers. It is entirely appropriate. It achieves many worthwhile objectives. There is nothing wrong in incorporating several other objectives including promotion of the maritime fleet in the national interest in such a program. But when you turn these programs over to Federal executive agencies, and you ask them to implement your intent, the intent of the law, you run into problems, because the Agriculture Department, try as it may and despite its very good intentions, is concerned exclusively with the farm community and the agricultural sector of the economy.

They feel no responsibility for the merchant fleet. As a result, they consider cargo preference to be a burden on them, a needless waste of their time and consumption of their effort and money. So for institutional reasons it is understandable why evasion has been such a very serious problem among the many Federal agencies. There are many more of them out there than there are of you. So it is easier for them to evade the intent of the law in ways we have seen on a monthly basis here recently.

There are other technical problems, such as the lack of long-term contracts that discourage investment in shipping or prevent it and so forth.

So these are some of the issues that I think have to be dealt with, and not the artificial issues of taking from one sector to give to another and so forth, and basing a decision on misleading cost comparisons and so forth. So, we would ask your support of the cargo preference program, because of the extremely important role it plays in support of the merchant fleet.

Thank you very much.

[The statement follows:]

STATEMENT OF PETER J. LUCIANO, EXECUTIVE DIRECTOR, TRANSPORTATION INSTITUTE

Mr. Chairman and Members of the Subcommittee: My name is Peter J. Luciano and I am Executive Director of the Transportation Institute. The Institute is a non-profit organization dedicated to research and education on maritime issues and the importance of America's merchant marine. Our 174 member companies operate U.S.-flag vessels in our nation's foreign and domestic shipping trades, including the Great Lakes and inland waterways. Our member companies are deeply committed to the maintenance of a strong merchant fleet beneficial to the American economy and national defense. Therefore, we are committed to vigorous adherence to existing statutes enacted by the Congress to meet these goals.

We would like to take this opportunity to commend the subcommittee for holding this comprehensive hearing today on a national policy vital to the continued operation of the U.S.-flag fleet: U.S. cargo preference laws.

As you know, the policy of the United States, as enunciated in the Merchant Marine Act of 1936, is to have a modern, privately owned and operated merchant marine sufficient to carry a substantial portion of the waterborne foreign commerce of the United States and capable of serving as a naval and military auxiliary in time of war or national emergency.

The Cargo Preference Act of 1954 (Public Law 664), which mandates that "whenever the United States shall . . . advance funds or credits . . . in connection with the furnishing of . . . commodities . . . at least 50 per centum of the gross tonnage of such . . . commodities . . . be transported on privately owned United States-flag commercial vessels . . .", was written to insure that the goal of the Merchant Marine Act of 1936 would be met.

Preference for U.S.-flag vessels has been continuously manifested in legislative pronouncements and reemphasized in a Presidential Directive of April 1962 which stated that the cargo preference laws are "an important factor in maintaining the merchant fleet necessary to meet our national goals and [are] in accordance with the general practice of other maritime nations. . . ."

Without a doubt, cargo preference programs, including Public Resolution 17 and the Military Transportation Act, account for a significant proportion of the U.S.-flag merchant fleet's activity and are simply and historical supports of the maritime transportation industry, with close parallels abroad.

By utilizing U.S.-flag vessels, the cargo preference programs have produced numerous benefits for the U.S. economy. For instance, the ability of this nation to continue to produce its vast quantities of goods and services is tied, in part, to the import and export of a wide array of commodities and finished goods. The U.S.-flag fleet is involved in this carriage, strengthening the national balance of payments position and providing jobs for U.S. citizens.

Cargo preference laws assist the U.S.-flag operator in maintaining profitability by guaranteeing cargoes to all sectors of the merchant fleet, tankers, liners and dry bulkers, alike. If such cargoes were restricted or terminated, all sectors of the industry would be negatively affected.

On the other hand, as harmful as this would be to the U.S.-flag operator, the impact on government programs in which U.S.-flag vessels participate, such as Public Law 480, Food for Peace and the Strategic Petroleum Reserve, would also be substantial. For instance, Public Law 480, 83rd Congress, Agricultural Trade Development and Assistance Act of 1954, as amended, states that it is U.S. policy "to expand international trade; to develop and expand export markets for U.S. agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States."

Legislative initiatives amending the Public Law 480 program since its inception have elevated the humanitarian aspects of this law to a high priority. Feeding the world's hungry and poor evolved as one paramount objective of U.S. foreign and humanitarian policy. But, nonetheless, the program still remains a primary and viable vehicle for the disposition of burdensome U.S. surpluses of wheat and other grains and for the development of foreign markets for U.S. food and agricultural commodities—to the benefit of the American farmer.

Thus, in addition to its humanitarian aspects, the Public Law 480 program boosts U.S. foreign exchange and foreign relations and provides a market for American agricultural surpluses. It is in this nation's interest that U.S.-flag vessels transport this government-generated cargo. The presence and use of the U.S.-flag vessels in

foreign ports can certainly be counted as a plus for U.S. foreign relations and a plus for domestic economic policy.

The participation of U.S.-flag vessels in the Strategic Petroleum Reserve program clearly enhances its aims. Established by Congress in 1975 to reduce the danger and possible economic loss due to a disruption in this nation's oil imports, the program additionally serves as a supply reserve for the defense establishment.

However, crucial to the program is the availability of reliable modes to transport this resource when required for economic or defense purposes. The use of secure, U.S.-flag tankers in filling the Reserve insures their continued availability for transport of this valuable cargo.

Therefore, the benefits that accrue from a cargo policy mandating utilization of national-flag vessels extend far beyond the impact on the merchant fleet.

Despite this recognition and legislative and executive reaffirmations that a substantial maritime capability is vital to the nation's economic and defense posture, there is little in federal agency practices today that pursue the intent of cargo preference programs.

Instead, a continuing pattern in the behavior of these agencies points to an ever-increasing circumvention of P.L. 664 and the intent of the statute. Agencies have adopted a policy of minimization of government-impelled cargo carriage in U.S.-flag vessels rather than effectively implementing the maximization policy as intended by Congress.

Examples of the continued non-compliance and erosion of the letter and spirit of preference laws are widespread and long-standing. Permit me to cite four recent examples of rather clear attempts to circumvent the law and, at the same time, to point out that such agency activity is not novel. Failure to correctly comply with the law have proved to be pervasive and abundant in the past.

Most recently, the General Services Administration (GSA) purchased bauxite from Jamaica for the national strategic minerals stockpile. The bauxite was to be transported to Gregory, Texas. By determining that a particular storage site unique to only self-unloading vessels for discharge be chosen, GSA effectively precluded the use of U.S.-flag bulk carriers whose operators had expressed interest in transporting that cargo. No U.S.-flag vessel available at the time could possibly meet the restrictions peculiar to that site. In a recent hearing before the House Merchant Marine and Fisheries Committee, it was revealed that options existed for unloading at a port 17 miles from the storage site for which several U.S.-flag vessels could have been utilized but which was rejected by GSA for alleged and undocumented safety reasons. Thus, U.S.-flag operators were prevented from participating in an opportunity to carry any part of the bauxite cargo—contrary to the 50 percent minimum requirements.

Prior to this incident, the United States Department of Agriculture (USDA) attempted to avoid preference requirements in its sale of excess butter stocks to New Zealand. The Commodity Credit Corporation (CCC) arranged for the sale of 220 million pounds of excess butter to the New Zealand Dairy Board on concessional terms. CCC then proceeded to argue that the Cargo Preference Act did not apply since they were acting in a commercial capacity when executing the sale. Such an argument is typical of agency reaction to complying with preference law especially within USDA. Even though a U.S.-flag carrier operating in a shipping conference between New Zealand and the United States was available and even though preference would result in no additional cost or administrative action, CCC still opposed the obvious application of the law. Eventually, USDA agreed to meet the legal requirement but only after inordinate pressure was applied by other departments within the Administration and by Congress.

The Department of Energy has often succeeded in its attempts to evade the Cargo Preference Act in implementing the Strategic Petroleum Reserve program. While this year the agency has been effective in achieving compliance, it may be properly attributed more to the minimum fill levels under long-term contracts than to any Department of Energy administrative zeal. However, it is our view that the agency has generally failed to comply because of its procurement policies which insist that oil purchases from Alaska should be included in compliance calculations.

DOE claims to have nearly achieved compliance in 1981 with 46.9 percent of the oil transported to the reserve in U.S.-flag tankers. However, the actual compliance level was only 25 percent, if correctly calculated. It is clear from the legislative history of the Cargo Preference Act that transport of cargo covered by the Jones Act should not be included for compliance purposes. DOE should be transporting at least 50 percent of the foreign oil purchases on U.S.-flag tankers.

The fourth example of agency action which erodes the spirit of cargo preference law involves the Agency for International Development (AID). The agency has per-

sisted in removing those cargoes on which it has received waivers from its compliance calculations, thereby making its compliance history appear to be satisfactory. The practical effect of this system is to reduce AID's efforts in employing the maximum number of U.S.-flag vessels based on their claim that they have met the legal requirements.

Failure to fully comply with existing cargo preference statutes are more than everyday headaches. They are blatant violations of law which undermine the share of cargoes moving on U.S.-flag vessels and which have prevented U.S. capitalization on cargoes which could have moved in American-flagships—had these laws been enforced to their fullest extent. These actions hinder government attainment of a clearly stated maritime policy which recognizes the vital importance of the U.S.-flag fleet to national economic and defense security. These violations must be corrected if the preference policy is to achieve results. Therefore, we respectfully ask this Committee to support a cargo preference policy which strengthens reservation provisions to ensure strict adherence, uniform application and maximum utilization of U.S.-flag vessels when government-generated cargoes are being transported.

In addition, the Institute asks that the Committee consider several programs which should be but are not currently under the auspices of preference laws. Non-inclusion and exemptions of the cash transfer aid programs and agricultural export credit programs in preference statutes inhibit employment of U.S.-flag vessels and provide an attractive atmosphere for regular attacks by opponents of preference laws.

Substantial cargoes would be available to the U.S.-flag fleet if these two programs were incorporated into the Cargo Preference Act. Instead, this government-generated cargo is carried on foreign vessels reducing the effectiveness of our aid programs and the ability of America's merchant fleet to compete.

Mr. Chairman and members of the Committee, we would also like to take the opportunity afforded by the hearing today to address a current legislative initiative which would clearly affect the goals of the Cargo Preference Act of 1954. As this Subcommittee knows, Senator Alan Dixon of Illinois has introduced S. 2511, a bill which would require that preference cargo be shipped on a lowest landed cost basis. The fundamental intent of this legislation is to reduce the overall transportation cost associated with preference cargo movements, be they aboard U.S. or foreign-flag vessels. This is certainly a most laudable objective, and one which the Transportation Institute wholeheartedly endorses. However, the Institute is concerned with the practical application of this bill upon the nation's preference cargo trade.

Our analysis of S. 2511 relative to its impact on the Cargo Preference Act of 1954 leads us to believe that enactment would produce three primary results. As previously mentioned, this bill would probably reduce overall preference cargo transportation costs. Unquestionably, as the Congress is continually faced with the problem of an escalating federal deficit, such an objective is both timely and commendable, and we strongly support Senator Dixon's effort in this regard.

Secondly, under the bill's lowest landed cost provisions, certain mid-continent cargo presently shipped via the tidewater ports would likely be rerouted through Great Lakes ports, there increasing cargo movements through the Lakes region. This has been a long-standing objective for all of us concerned with the Great Lakes maritime industry. In recent years, we have witnessed both legislative and regulatory proceedings designed to increase Great Lakes cargo traffic by expanding the participation of Great Lakes ports in the preference cargo trade. For example, last year Senator Charles Percy of Illinois considered introducing an amendment to the Agricultural Trade Development and Assistance Act of 1954 to exempt the Great Lakes from the U.S.-flag carriage requirements of the Cargo Preference Act. Additionally, in 1980, the Maritime Administration proposed to geographically distribute preference cargo among the four designated seacoasts. The Transportation Institute supported the fundamental goal of both the Percy amendment and the Maritime Administration proposal, and now supports the concept inherent in S. 2511—namely, to increase cargo movements through the Great Lakes and thereby foster the revitalization of the Great Lakes maritime industry. However, we also had serious reservations with the two prior proposals, and now with Senator Dixon's bill, given the practical effect they are likely to have on the movement of preference cargoes aboard U.S.-flag vessels.

This brings us to the third result which would stem from enactment of S. 2511. This legislation, despite its genuine intention to the contrary, would serve to reduce the aggregate tonnage of preference cargo carried aboard U.S.-flag vessels. We believe it is clear that such an unfortunate consequence would inevitably result from the joint application of the lowest landed cost criterion of S. 2511 coupled with the current provisions of the Cargo Preference Act.

As we have stated earlier in our testimony, the Cargo Preference Act provides that at least 50 percent of certain designated cargo be carried aboard U.S.-flag vessels "to the extent such vessels are available at fair and reasonable rates." Presently, the unfortunate reality is that Great Lakes ports are served on a regular basis by only one U.S.-flag carrier which offers overseas service. Therefore, virtually all the cargo diverted through the Great Lakes as a result of S. 2511 would be carried aboard foreign-flag vessels, which would undoubtedly translate into an overall loss of preference cargoes for U.S.-flag vessels. This would clearly be contrary to both the spirit and intent of the Cargo Preference Act.

Mr. Chairman, S. 2511 presents us with a difficult dilemma. It is a dilemma which has existed for some years, and which has thus far proved insoluble because it pits the equally legitimate concerns of two important sectors of our national maritime industry against one another. On the one hand, the U.S.-flag merchant marine, already severely depressed, cannot absorb any additional reductions in its existing cargo base. On the other hand, the Great Lakes maritime community is faring no better, and is anxious to move forward with an effective and meaningful plan that will foster its revitalization. S. 2511, as presently drafted, addresses only part of the problem. Moreover, we fear that its solution for the Great Lakes may exacerbate already serious problems now faced by the U.S.-flag merchant fleet.

The Transportation Institute believes that an equitable solution to this dilemma can be devised—a solution which provides the Great Lakes with much needed cargoes but does not reduce the aggregate tonnage of preference cargo carried aboard U.S.-flag vessels. We would be pleased to work with this Subcommittee, Senator Dixon, and all other concerned parties to develop a proposal to which all sectors of the American maritime community can subscribe.

In conclusion, we thank this Committee for holding this hearing and pledge our cooperation and support in an effort to rebuild the U.S.-flag merchant marine.

Thank you.

Senator GORTON. Thank you.

I am going to very much limit our questions because of the time constraints, but Mr. Leff, I would like to ask you about your proposal to limit the eligibility for preference cargoes to vessels less than 20 years old and to impose a replacement obligation. Do you believe that such requirements could be established immediately, or would it of necessity be something we would have to phase in over a period of time?

Mr. LEFF. I would think practically speaking it would be something that would have to be phased in over time, but I think it could be started immediately, but I do not think it could be completed—it could not take place overnight, no, sir.

Senator GORTON. Do either of you think that we are going to get a significant competitive benefit out of permitting the immediate eligibility to reflag vessels to carry preference cargo, rather than requiring a 3-year wait, assuming that that part of the MARAD authorization bill passes?

Mr. LUCIANO. That is a difficult question, Mr. Chairman. In some cases, if construction in the United States is impossible, then obviously something has to be done to replace the fleet. The question is, is construction in the United States impossible? I do not think that is a policy question that has yet been addressed fully either by the Congress or by the administration. If, in fact, it is impossible to construct ships because of Government policy in the United States, then obviously some replacement policy—

Senator GORTON. I think you missed the thrust of my question. The thrust of my question really was: Will there be more competition for preference cargoes? Based on the assumption that we will allow reflagging and immediate eligibility for such preference cargoes, will shippers benefit?

Mr. LEFF. I believe, getting back to the question you asked before, it depends on the ship that is reflagged. If it is a modern technologically advanced vessel, a slow-speed diesel, et cetera, of larger capacity, yes, I think you would.

Senator GORTON. Senator Inouye?

Senator INOUE. Just to follow up, Mr. Chairman, how do you propose that the shipping companies finance the replacement program?

Mr. LEFF. Well, the same way they do now. I mean, the ships that have an ODS contract have a replacement obligation. Eventually, when the ship reaches the end of its useful life, they have to replace it. Those that do not and still want to be eligible to carry Public Law 480 would have to seek financing in the marketplace like any other operator.

Senator INOUE. Will they build foreign or here?

Mr. LEFF. It depends on what the law permits them to do at the time they are ready to build.

Senator INOUE. Are you in favor of the provision in our bill?

Mr. LEFF. Yes, sir. Given the best of all worlds, we would like to see U.S. shipbuilding, but I do not think you can expect the U.S. operator to compete unless he has parity with his foreign competitors, and he does not have parity if he is building a ship in a U.S. yard that costs twice as much as the cost of building that ship in Japan or somewhere in Asia and he gets better financing terms.

Senator INOUE. Thank you.

Mr. LUCIANO. Mr. Chairman, if I might go back to your earlier question addressed to both of us, I think the question of whether foreign-built ships might lead to a more competitive environment depends very much on a wide range of assumptions that we have not addressed yet. I think that U.S.-built ships can be competitive given the right circumstances, the right volumes, the right sort of long-term agreements and so forth. So I think the question of competitiveness is not linked inevitably to U.S. or foreign construction. I think that depends on a number of other prior policy decisions.

Senator GORTON. Thank you both.

We have three more witnesses, and I think in the interest of time we will ask all three of you to come up here: Mr. Drozak, who will start, and then Mr. Shapiro with Mr. Mills.

STATEMENTS OF FRANK DROZAK, PRESIDENT, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA; AND PHILIP J. SHAPIRO, PRESIDENT, APEX MARINE CORP., ACCOMPANIED BY TOM MILLS, COUNSEL

Senator GORTON. Frank, we will start with you. We will, of course, include your statement in the record. If you can, please summarize it.

Mr. DROZAK. Thank you, Mr. Chairman.

Mr. Chairman, we appreciate the opportunity to present our views on the issue of cargo preference laws. These laws and their enforcement are vital to the survival of our U.S. merchant marine.

The maritime policy of this Nation is clearly stated in the Merchant Marine Act of 1936. Section 101 of that act states that our national interest requires a merchant marine capable of carrying a

substantial portion of our foreign commerce and of serving as a military auxiliary during a time of national emergency.

Clearly the merchant marine called for in that act does not exist. Presently our fleet carries less than 3.6 percent of our foreign trade. This meager fleet represents a serious weakness in our national defense. The enactment of a permanent cargo preference law in 1954 was meant to reaffirm the shipping policy of the United States in the clearest of terms. That law, Public Law 83-664, mandates that 50 percent of Government-generated cargoes be carried by U.S.-flag vessels. The Seafarers International Union wholeheartedly supports this national maritime policy.

The Strategic Petroleum Reserve, SPR, was created in 1975 to protect the United States from oil supply embargoes and disruptions. Since the purchases of the SPR program resumed in October of 1980, only 27 percent of the foreign oil has been shipped on U.S.-flag bottoms. Efforts by the SIU to have DOE comply with Public Law 664 have only met with resistance. This has left U.S.-flag tankers and American seamen idle when by law they should have been employed.

Public Law 480, the food for peace program, has been another source of consistent attacks on cargo preference laws. As you know, the Public Law 480 program provides relief to developing nations. The program has also been successful in sending a positive political message overseas.

An important factor in this success has been that the food arrives in ships proudly flying the American flag. Last year during the hearings on the 4-year reauthorization, attempts were made to exempt the program from cargo preference laws. No sooner was that fought off than an attempt was made on the Senate floor to do the same thing. Fortunately, enough Senators recognized the devastating effect this action would have had on the U.S. merchant marine. The motion was defeated by an impressive 70 to 28 vote.

In 1978 the Government Accounting Office issued a report entitled "Cargo Preference Programs for Government-Financed Ocean Shipments Could be Improved." That study concluded that the Maritime Administration lacked the authority to enforce cargo preference laws. Unless strong measures are taken, we will continue to witness the undermining of cargo preference laws.

Last summer, the Department of Agriculture negotiated the sale of 220 million pounds of surplus butter to New Zealand. Since butter was Government-generated, 50 percent obviously should have been carried on U.S.-flag bottoms. Yet, USDA simply refused to obey the law.

More recently, the General Services Administration purchased Jamaican bauxite for the U.S. strategic stockpile. While GSA admitted cargo preference applied, they simply made the requirement for the vessel so specific that only a foreign-flag carrier could meet them. Thus the law was undermined once again. These are the types of deliberate action that are eating away at the U.S. merchant marine.

The SIU strongly believes that corrective steps must be taken before it is too late, providing the Maritime Administration with the authority and manpower to oversee compliance would be an

important first step. As we have all seen, without teeth to enforce them cargo preference laws will continue to be ignored.

On another important matter directly related to the Cargo Preference Act, we would like to share our views on S. 2511. This is legislation recently introduced by Senator Dixon of Illinois. This bill would try to reduce the overall cost of preference cargo shipments while increasing preference cargo movements through the Great Lakes.

Needless to say, the SIU is very much concerned with the dismal state of Great Lakes shipping. We recognize the intent of S. 2511 and endorse its general concept. However, we feel that its enactment as presently written would be harmful to the U.S.-flag merchant marine as a whole.

Specifically, the Cargo Preference Act provides for U.S.-flag vessels carriage of at least 50 percent of designated preference cargo to the extent that such vessels are available at fair and reasonable rates. However, the Great Lakes presently have only one U.S.-flag carrier providing overseas service. Therefore, nearly all preference cargo diverted to the Great Lakes by virtue of the lowest landed cost provision of S. 2511 would be shipped aboard foreign-flag vessels.

For this reason, the SIU must oppose the bill as presently written. The key to the future of the U.S. merchant marine is cargo. A strengthening of cargo preference laws is but one step in the battle to save our ailing industry.

Over a month ago I testified before you on the need to continue to support existing maritime programs until alternatives are firmly in place. Since that time, the Reagan administration has announced its long-awaited maritime program.

The Reagan maritime policy is simply not enough. Congress must act now to restore funding to the construction differential subsidy program and remove ceilings on the title XI vessel loan guarantee program if the shipbuilding industry is to be saved. Congress must also move quickly to establish a positive cargo policy to end the decline of the U.S.-flag fleet.

That policy should include the ratification of the UNCTAD Code of Conduct for liner shipping and the negotiation of bilateral shipping agreements for bulk cargoes with major U.S. trading partners. Without such a policy, the fight to save the U.S. merchant marine will be lost.

The effect of the decline of the U.S. fleet on our military sealift capabilities also must not be ignored. Adm. Thomas Hayward, the outgoing Chief of Naval Operations, recently called the U.S. merchant marine a victim of prolonged neglect whose health and vitality should be a subject of keen concern to anyone seriously interested in the state of our national defense.

In view of the Falklands crisis, this is surely a statement we should all take time to consider.

Thank you, Mr. Chairman. I am prepared to answer any questions.

[The statement follows:]

STATEMENT OF FRANK DROZAK, PRESIDENT, SEAFARERS INTERNATIONAL UNION OF
NORTH AMERICA

Mr. Chairman and members of the Subcommittee: My name is Frank Drozak. I am President of the Seafarers International Union. I am also President of the AFL-CIO Maritime Trades Department, representing eight and a half million workers in forty-four allied trades. We appreciate this opportunity to present our views on the issue of cargo preference laws. These laws and their enforcement are vital to the survival of our U.S. Merchant Marine.

The maritime policy of this nation is clearly stated in the Merchant Marine Act of 1936. Section 101 of that Act states that our national interest requires a merchant marine capable of carrying a substantial portion of our foreign commerce and of serving as a military auxiliary during a time of national emergency. It goes on the say that "It is hereby declared to be the policy of the United States to foster the development . . . of such a merchant marine."

Clearly, the merchant marine called for in that Act does not now exist. For over three decades, the U.S.-flag fleet has been declining at a dangerous rate. Presently, our fleet carries only 3.6 percent of our foreign trade. This meager fleet represents a serious weakness in our national defense.

Cargo preference—as we know it—began after World War II. Following the war, the United States had a merchant fleet second to none. The world was almost totally dependent on U.S. ships and supplies for existence. As part of the U.S. aid program, foreign countries were sold over 1100 U.S. ships at token prices.

Because many friendly nations depended on their newly-acquired maritime fleets for a living, their ships were permitted to carry up to 50 percent of U.S. foreign aid cargoes. The U.S. thus became the first nation in history which permitted foreign flag ships to share half of the cargo shipped by its own government and paid for by its own citizens.

Concern that U.S. aid should be carried by U.S.-flag ships resulted in legislation passed annually until 1954. That yearly legislation allocated at least 50 percent of the cargoes generated by government-sponsored programs to U.S.-flag ships.

The enactment of a permanent cargo preference law in 1954 was meant to reaffirm the shipping policy of the United States in the clearest of terms. That law (P.L. 83-664) mandates that 50 percent of government generated cargoes be carried by U.S.-flag vessels. The Seafarers International Union wholeheartedly supports this national maritime policy.

It is one thing to have cargo preference laws on the books. But, as we have all learned, it is an entirely different matter to have these laws obeyed. Over the years, as you well know, there have been repeated actions by government agencies to avoid complying with this law.

During the past year alone, we have had to fight several violations of cargo preference laws. A year ago we had an inadequate fleet with 537 active ships in the privately-owned deep sea fleet. Today, we have dropped to a dismal 502 ships. This country lost more ships during World War II than the total in today's fleet.

Several recent examples highlight the type of deliberate neglect of cargo preference laws that has plagued the U.S. merchant marine.

The Strategic Petroleum Reserve (SPR) was created in 1975 to protect the United States from oil supply embargoes and disruptions. Since purchases for the SPR program resumed in October of 1980, only 27 percent of the foreign oil has been shipped on U.S.-flag bottoms. The SIU has repeatedly pointed out to the Department of Energy (DOE) that it has not been complying with Public Law 664 in its efforts to fill the SPR. This has left U.S.-flag tankers and America seamen idle when, by law, they should be employed.

DOE still claims to be abiding by cargo preference laws. They arrive at this conclusion by insisting that shipments of Alaska oil to the SPR count as part of the U.S.-flag share. This, despite the fact that the Department of Transportation has stated that only foreign oil shipments should be counted since Alaska oil must be shipped on U.S.-flag tankers under the Jones Act anyway. Yet, the only thing we in the maritime community can do to have the law obeyed is to go through a long court battle.

Over the years, Public Law 480, the Food for Peace Program, has been the source of a number of attacks on cargo preference laws. As you know, the Public Law 480 program provides relief to developing nations. The program has also been successful in sending a positive political message overseas. An important factor in this success has been that the food arrives in ships proudly flying the American flag.

There are those here in Congress and in the Executive Branch who refuse to recognize the vital role the U.S.-flag fleet plays in this program. Last year, during the

hearings on the four-year reauthorization of the Public Law 480 program, attempts were made to exempt the program from cargo preference laws. No sooner was that attack fought off than an attempt was made on the Senate floor to do the same thing. Fortunately, enough Senators recognized the devastating effect this action would have had on the U.S. merchant marine. The motion was defeated by an impressive 70-28 vote.

The examples that we have described up to now are only the most blatant ones. But we are constantly faced with smaller, but no less important, attempts to ignore cargo preference laws. Too much of our energy—as well as yours—is spent combating government agencies just to have the law obeyed.

We feel very little, if anything, has improved in the cargo preference compliance area since 1978. In that year, the Government Accounting Office (GAO) issued a report entitled "Cargo Preference Programs for Government-Financed Ocean Shipments Could Be Improved". That study concluded that the Maritime Administration (MarAd) lacked the authority to enforce cargo preference laws.

Lack of legal authority is certainly a major problem for the Maritime Administration. But, even if they were given an enforcement program with teeth, problems would persist. MarAd simply lacks the staffing necessary to insure that all federal agencies abide by the law. This is not a criticism of MarAd. With the tools available, they do a good job. But understaffing allows some agencies to evade the law. As a result, those of us in the maritime community have to spend a great deal of time acting as policemen.

Unless strong measures are taken, we will continue to witness the undermining of cargo preference laws. In the past year, we have seen two government agencies deliberately ignore the law and the findings of the Maritime Administration. Instead of employing U.S.-flag vessels, they went out of their way to employ foreign-flag carriers.

Last summer, the Department of Agriculture (USDA) negotiated the sale of 220 million pounds of surplus butter to New Zealand. Since the butter was government-generated, 50 percent obviously should have been carried on U.S.-flag bottoms.

But the deal also included a 180-day interest-free payment provision. This provision should have involved Public Resolution 17. This law says that when government loans are made to foster agricultural exports, 100 percent of those exports should be transported by U.S.-flag ships. Export-Import Bank programs are subject to P.R. 17 for that reason.

Despite the obvious nature of this deal, the USDA simply stood fast and refused to admit that U.S.-flag bottoms should have carried at least 50 percent of the cargo.

More recently, the General Services Administration (GSA) purchased Jamaican bauxite for the U.S. strategic stockpile. Anyone looking at the way GSA went about this business can see they had no intention of using U.S.-flag vessels. While GSA admitted cargo preference applied, they simply made the requirements for the vessel so specific that only a foreign-flag carrier could meet them. Thus, the law was undermined once again.

These are the types of deliberate actions that are eating away at the U.S. merchant marine. The SIU strongly believes that corrective steps must be taken, and before it is too late.

The first step that needs to be taken is for the President to issue an Executive Order directing all agencies to comply with the letter and the intent of cargo preference laws. Agencies must be put on notice that the President will not tolerate violations of the law.

The next step that needs to be done is to amend Section 901(b) of the Merchant Marine Act to clarify the types of programs covered by cargo preference. This would make it more difficult for agencies to use loopholes to evade the intent of the law.

Finally, the Maritime Administration must be given the authority and the manpower to oversee compliance. As we have seen, without teeth to enforce them, cargo preference laws will continue to be ignored. Without staff to watch the other agencies, things will continue to slip through the cracks.

On another important matter directly related to the Cargo Preference Act, we would like to share our views on S. 2511. This is legislation recently introduced by Senator Alan Dixon of Illinois. This bill would try to reduce the overall cost of preference cargo shipments while increasing preference cargo movements through the Great Lakes. Both of these objectives are worthwhile and deserve this Subcommittee's support. However, we do have one important concern with S. 2511 which we would like to bring to your attention.

Needless to say, the SIU is very much concerned with the dismal state of Great Lakes shipping. It is our strong belief that an economic crisis of this proportion calls for Congressional attention. We recognize the intent of S. 2511, and endorse its gen-

eral concept. However, we feel that its enactment—as presently written—could be harmful to the U.S.-flag merchant marine as a whole.

S. 2511 would require the shipment of preference cargo on a lowest landed cost basis. Such a standard would apply to both overland and maritime rates. Our particular concern stems from a provision in the Cargo Preference Act that, together with the language of S. 2511, could provide a mechanism through which compliance with the 50 percent U.S.-flag carriage requirement will be undermined.

Specifically, the Cargo Preference Act provides for U.S.-flag vessel carriage of at least 50 percent of designated preference cargo to “the extent such vessels are available at fair and reasonable rates.” However, the Great Lakes presently have only one U.S.-flag carrier providing overseas service. Therefore, nearly all preference cargo diverted to the Great Lakes by virtue of the lowest landed cost provision of S. 2511 would be shipped aboard foreign-flag vessels. This would almost certainly lead to an overall reduction of preference cargo movements for the U.S.-flag maritime industry.

Mr. Chairman, as you know, the American merchant marine is already depressed. The enactment of this bill, as presently drafted, would only serve to strike yet another blow to the troubled U.S.-flag industry. Simply put, we cannot afford to lose any additional cargo without hurting the future viability of the U.S.-flag merchant marine. Inasmuch as S. 2511 could serve as an instrument through which the U.S.-flag vessel carriage provisions of the Cargo Preference Act could be avoided, the SIU opposes the bill as presently written.

The key to the future of the U.S. Merchant Marine is cargo. The strengthening of cargo preference laws is but one step in the battle to save our ailing industry. Over a month ago, I testified before you on the need to continue to support existing maritime programs until alternatives are firmly in place. Since that time, the Reagan Administration has announced its long-awaited maritime program.

The Reagan maritime policy is simply not enough. Congress must act now to restore funding to the construction differential subsidy program and remove ceilings on the Title XI vessel loan guarantee program if the shipbuilding industry is to be saved. Congress must also move quickly to establish a positive cargo policy to end the decline of the U.S.-flag fleet. That policy should include the ratification of the UNCTAD Code of Conduct for liner shipping and the negotiation of bilateral shipping agreements for bulk cargoes with major U.S. trading partners. Without such a policy, the fight to save the U.S. Merchant Marine will be lost.

We must remember how vital this struggle for survival is. The higher the share of our foreign commerce handled by foreign competitors, the larger our balance of trade deficit will become. With each U.S.-flag ship that goes to the boneyard, our already unacceptable level of unemployment will become that much worse.

The effect of the decline of the U.S. fleet on our military sealift capabilities also must not be ignored. Admiral Thomas Hayward, outgoing Chief of Naval Operations, recently called the U.S. Merchant Marine a “victim of prolonged neglect, whose health and vitality should be a subject of keen concern to anyone seriously interested in the state of our national defense.” In view of the Falklands crisis, this is surely a statement we should all take time to consider. Cargo preference programs are one of the last things keeping this industry alive. Accordingly, we urge your continued strong support.

Thank you very much.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. This morning the committee has heard testimony from the Department of Energy that petroleum “may be the only major commodity which often has been loaded aboard a ship and already is at sea when purchased. Since industry does not routinely use U.S.-flag vessels to import crude oil into this country, petroleum purchased at sea almost invariably is on a foreign-flag vessel.”

DOE has also testified that it has been heavily dependent on the “spot” market for its oil supplies for the Strategic Petroleum Reserve (SPR), and that a large part of this oil available to it consisted of cargoes already at sea, on foreign-flag vessels.

Under these circumstances, don't the “facts-of-life” of the marketplace make it difficult for DOE to comply with the cargo preference laws? Isn't it a case of supply and demand?

Answer. DOE has chosen the spot market purchase method. If the Department finds that this method makes it difficult to comply with the cargo preference laws it

can choose another way of purchasing the oil for the SPR. Even under the spot solicitation purchases, it is our view that the Department could buy only FOB origin or FOB destination U.S.-flag. In this way it could meet the compliance standards and make up for past failure to do so. An example is the Mexican purchase, which is achieving 100 percent U.S.-flag carriage.

Although it is true that a portion of the oil is already loaded on tankers, it is not the only oil that is available. DOE can choose to buy other oil which is not previously loaded. In reference to supply and demand, DOE has let it become known that it has a demand for so called "distressed cargo" which is not carried on U.S.-flag vessels. The Department can clearly alter the demand, and in current oil markets, the supply would come forward.

Question. You have heard DOE's testimony that there is a significant risk that requiring greater cargo preference efforts in the SPR program would exclude opportunities to acquire crude oil at the most favorable world market prices, and jeopardize our ability to meet goals in a timely manner? In other words, DOE would be creating a national security risk.

How do you respond to this contention?

Answer. Are the most favorable world market prices synonymous with "distressed cargo"? It is inconsistent policy for a department of the United States Government to purchase oil under conditions which evade another law which is applicable to the purchase of that oil. The department has never viably demonstrated that it was unable to contract for all the oil it desired to buy and still use more U.S.-flag tankers. The approach is inverted. The department claims that they have already purchased oil and, as it is already loaded in tankers, they are unable to use U.S.-flag tankers. If the oil was purchased and solicitations were offered under reasonable circumstances and U.S.-flag tankers were not available under that situation, a waiver can be obtained.

Question. In DOE's statement, it lists 8 steps it has taken in an effort to increase U.S.-flag ship utilization for the carriage for foreign oil.

Do you believe these steps will substantially increase the probability that 50 percent of the foreign oil will move on U.S.-flag vessels?

If not, what additional steps should DOE take?

Answer. DOE has made some efforts to increase the use of U.S.-flag vessels. However, under the current scheme it is not possible for them to meet the minimum 50 percent foreign oil compliance requirement on U.S.-flag ships. The SIU and other maritime industry representatives have maintained that DOE must use only U.S.-flag vessels to make up the over 20 billion long ton miles deficit. The only way to guarantee this is to accept contracts which are FOB origin (thereby allowing U.S.-flag, MSC contracting, to carry) or FOB destination U.S.-flag. We believe that no other method would be as effective to make up the deficit.

Question. Sen. Dixon cited several examples of problems with the existing cargo preference system.

Recently a Public Law 480 shipment of soybean oil to Pakistan was given to the high bidding U.S.-flag vessel, the *Perryville*. The additional cost to the Dept. of Agriculture was \$311,000 more in ocean freight costs than was offered by another U.S. vessel.

In the case of the *Perryville*, the cargo preference was supporting a 40 year old tramp vessel.

On the first title II, Public Law 480 shipment that it booked to West Africa this year, the Dept. of Agriculture decided to use a U.S.-flag vessel at a rate of \$132 per ton rather than accepting a bid from other vessels (including U.S.) whose rates ranged from \$59 to \$142 per ton.

Last year, the *Angelina* was scrapped in Asia after carrying Public Law 480 to Pakistan.

Do the first two examples indicate a need in our cargo preference laws that preference cargo shipped on U.S.-vessels be shipped on the least expensive U.S. ship?

Does the last example indicate that there be a requirement in our cargo preference laws to assure that the program support a modern, efficient U.S. fleet?

Answer. In the case of the *Perryville*, USDA testified that Pakistan demanded that the smaller ship be used for docking purposes. If this had not been the case they would have awarded the contract to the lower cost vessel. In the second case of the Public Law 480 shipment to West Africa, the Department of Agriculture argued that this information was not accurate. Apparently no other U.S.-flag vessels were offered.

The SIU has previously testified that ships over twenty-five years should be U.S. Coast Guard certified. We would support government policy that would provide this country with a modern and efficient fleet for the carriage of these cargoes. However,

there is no mechanism in place which would encourage such a policy. The SIU would be happy to cooperate both with the Congress and the Executive branch to formulate such a policy.

Question. In the last Congress I introduced legislation (S. 1461) which would have provided MarAd with general authority to determine which government programs are subject to the cargo preference laws.

Because our time was taken up with passing the Maritime Regulatory Reform Act (S. 2585), we did not have the opportunity to consider S. 1461.

Do you think this legislation is necessary, and would you support it? I note that the administration supports our cargo preference laws.

Answer. We believe that full authority should be extended to the maritime administration to determine which government programs are subject to the cargo preference laws. Because maritime programs fall in the jurisdiction of a vast number of different governmental entities, we believe that it is necessary to have one government agency which would have such authority. In addition we believe that an enforcement mechanism should be developed to deter evasion of cargo preference laws by government agencies.

Question. Should cargo preference apply to the carriage of U.S. mail by vessel?

Answer. Yes, the SIU has in the past and would continue to strongly support this policy. It would represent a significant step toward strengthening this country's merchant marine. It would mean more jobs for American citizens and therefore more tax revenue generated by those jobs.

Question: Most of our dry bulkers are over 25 years old. It has been said they are very inefficient to operate.

(A) Can you tell the committee if there is a difference in the manning levels of these older ships and the modern dry bulkers: and if so, what the difference is?

(B) Is there a difference in the size of the gang it takes to load or off-load the older dry bulkers and the new ones?

Answer (A) The manning levels on all vessels are based on a number of variables including size of vessel, age of vessel, and propulsion system. In general, the older dry bulk vessels in the U.S. fleet require a larger crew. These older vessels are less automated, and therefore, require more personnel to insure their safe and efficient operation. Many of the more modern vessels have self-contained engine rooms which require less maintenance and supervision. Smaller compliments in the deck and engine departments allows a reduction in the stewards department, thus contributing to a smaller crew compliment. A typical crew compliment for a World War II vintage bulk carrier would be around 38. For a modern bulk carrier, built since 1970, the crew would number around 25.

(B) The loading and off-loading of a vessel depends on three main items: (1) the cargo; (2) the configuration of the vessel; and (3) the port facilities. Many of the older dry-bulk vessels are converted freighters and tankers not designed specifically for dry bulk cargoes. This often makes the loading and off-loading more difficult and may require more personnel. Also, some vessels are "geared" meaning that they have loading and unloading equipment which helps determine the size of the gang necessary. The type of cargo also plays a part in the gang size necessary for loading a vessel. Finally, port facilities play an important role in determining gang size. Although most U.S. ports are equipped with the most modern equipment, most third-world ports do not have the benefit of these devices and therefore rely on antiquated labor intensive methods of discharging cargoes.

Senator GORTON. Thank you very much for that good statement.
Mr. Shapiro.

Mr. SHAPIRO. Mr. Chairman, I am Phillip J. Shapiro, vice president and general counsel of Apex Marine Corp., Lake Success, N.Y. I am accompanied here today by counsel, Mr. Thomas Mills of Washington, D.C. I have previously submitted a somewhat longer written statement, and my oral testimony will summarize my written submission.

Our company is the managing agent for 16 U.S.-flag bulk vessels aggregating over 1.3 million deadweight tons, with another 82,000 deadweight ton vessel currently under construction. Of that fleet, eight vessels, aggregating 700,000 deadweight tons, have operated under long-term operating differential subsidy contracts and therefore are limited to the foreign trade. I want to clarify at the outset,

because there is always some confusion on this point, that the cargo preference trades are indeed foreign trade, not domestic or Jones Act trade.

The central purpose of the 1970 amendments to the Merchant Marine Act was to build a 300-ship U.S.-flag bulk foreign trading fleet. In accomplishing that, Congress intended to phase out the very expensive indirect subsidy system represented by the cargo preference program by substituting a new direct operating and construction differential subsidy program. Indirect subsidy paid in premium rates for preference cargo had not caused a new, modern bulk fleet to be built. The few bulk ships we had were old and obsolete and their operators were under no obligation to reinvest the cargo preference subsidy paid to them in new modern tonnage.

Congress believed that direct subsidies would build new ships while phasing out premium rates and the obsolete ships dependent upon them. Preference cargoes would provide a guaranteed minimum amount of cargo for newly built U.S. ships, and the subsidies to be paid them were supposed to guarantee them a parity of operating costs with the foreigners. This combination would provide the incentive to build new bulk ships.

Moreover, since new ships were subsidized, they would also be able to underbid the old ships, which would not be eligible for subsidy. Since those old ships could not compete with foreign or newly built ships, they would likely be scrapped or be limited to the domestic trade.

Those few unsubsidized ships, which were relatively new but which had recently been modernized, were to be offered subsidy upon the same conditions as those operators building new ships. Despite this, the Maritime Administration has refused to allow subsidized bulk ships, of which our fleet is the largest, to carry preference cargoes. Although finding a need for all seven of our tankers to carry preference cargoes, they have denied outright permission for five of the seven even to bid in on the cargo.

As to the two ships which they allowed to bid for cargo, they have placed uneconomic conditions and rate limitations so as to amount effectively to a denial. The Federal district court recently agreed with several of our companies that the Maritime Administration's denial of preference privileges to our five ships was unlawful, and despite the fact that the solicitor general has determined not to appeal that decision, the Maritime Administration continues to deny those five vessels the right to bid in for cargoes.

What this all means to the U.S. taxpayers is that extremely higher premium rates continue to be paid primarily to obsolete vessels whose owners have no obligation to build and who, in fact, do not build new ships. The Government gets nothing for its premium rate other than transportation, and it could get that much cheaper from foreign ships.

Our two ships purportedly permitted in the trade have offered rates from \$14 to \$76 per ton lower than the average rate given to the so-called nonsubsidized ships, but all our rates have been disapproved as being too high, and the subsidy which forms the basis for our being able to bid lower amount to only \$5 per ton. At any rate, our subsidy is paid whether we carry preference cargo or not.

The resultant loss to the Government in these four instances alone was more than \$6.5 million. The loss to the Government during the years our vessels have operated because MARAD has not permitted the rest of our fleet even to bid has been many times higher. There are several proposals now being circulated to admit foreign-built ships to the preference trades without a 3-year sanitation period and to alter the procurement process regarding ocean transportation.

I ask this subcommittee to keep in mind during any consideration of changes to the cargo preference program the great amounts of Government moneys that can be saved and new shipbuilding promoted by allowing the modern and efficient U.S. built and manned subsidized fleet to carry preference cargoes.

Mr. Chairman, that completes the oral summary of my submitted statement. Thank you for the opportunity to appear before you today, and I would be pleased to answer and to respond to any questions you may have.

[The statement follows:]

STATEMENT OF PHILIP J. SHAPIRO, VICE PRESIDENT AND GENERAL COUNSEL, APEX MARINE CORP.

Mr. Chairman, I am Philip J. Shapiro, Vice President and General Counsel of Apex Marine Corp., Lake Success, New York. I am accompanied by counsel, Mr. Thomas Mills of Washington, D.C. Apex Marine Corp. is the managing agent for the fleet of U.S.-flag tankers and OBO's principally controlled by Captain Leo V. Berger and Mr. Peter Constas. In all, our fleet numbers 16 vessels, aggregating over 1.3 million DWT, with another 82,000 DWT vessel now under construction. Apex manages the newest and largest U.S.-flag foreign trading fleet—6 tankers and 2 OBO's aggregating over 700,000 DWT with an average age of 8 years. This contrasts with the 20-year average age of the U.S.-flag bulk fleet as a whole.

Despite the fact that our fleet is the newest, most modern under the U.S.-flag—indeed, perhaps because it is—our ships have been denied the right to participate in the carriage of dry bulk preference cargoes, principally grain moving under the Public Law 480 and A.I.D. programs. The U.S. District Court for the District of Columbia has upheld our position that the Maritime Administration's denial of preference trade privileges to five of the ships in our group was unlawful. Nevertheless, the Maritime Administration has thrown additional road-blocks in our way, first, by conditioning our carriage of preference cargoes upon rates and terms that make it uneconomic, and second, by continuing to deny outright the privilege of bidding for such cargoes for five of the ships, despite the District Court's recent determination that such denial is unlawful and despite the fact that the Solicitor General has determined not to appeal that determination.

If this were a purely economic dispute between our group and the Maritime Administration, Mr. Chairman, we would not take up this Committee's time. But there are two losers as a result of the Maritime Administration's unlawful action: our group and the U.S. Treasury, neither of which, I might add, can afford it in these times.

Let me first put this into historical perspective. The 1970 Amendments to the Merchant Marine Act were aimed at building a U.S.-flag, foreign-trading bulk fleet. Theretofore the promotional programs had concentrated on the liner fleet, but by that time far more tonnage was moving in bulk than by liner. Technical changes were made to extend operating-differential and construction-differential subsidies to bulk vessels in an effort to build a 300 ship U.S.-flag foreign trading bulk fleet by 1980. As you know, Mr. Chairman, less than 10 percent of that goal was reached.

Until the direct operating- and construction-differential subsidies were extended to bulk ships only the indirect subsidies—preference cargoes—were available for bulk ships. But insofar as building new, modern ships suitable as naval auxiliaries and capable of competing for cargoes on the world market were concerned, the cargo preference program was woefully inadequate. So, just as Congress moved from indirect ocean-mail contract subsidies to direct subsidies for liner vessels in 1936, it moved—or attempted to move—from indirect cargo preference subsidies to direct subsidies for bulk vessels in 1970. The reasons were much the same: First, indirect

subsidies didn't work. They didn't build new vessels, while perpetuating the old. Despite a significant cost the government got only transportation for its freight charges—something it could have gotten far cheaper from foreign ships. Second, indirect subsidies were far more expensive than direct subsidies, since they were virtually uncontrollable. The House Report on the 1970 Act placed the cost of the program at \$630 million for the period 1960-1970 alone.

So Congress extended direct subsidies—pegged, as you know, at the actual differential between U.S. and foreign operating and construction costs—to bulk ships. Despite the principal promotional purpose—to build a new, modern U.S.-flag bulk fleet capable of carrying a substantial portion of our foreign commerce and of serving as naval auxiliaries—Congress also expected to save the Government a substantial amount of money: \$840 million between 1970 and 1982 according to the House Committee Report. Those savings were anticipated because the directly subsidized vessels were expected to displace the so-called "unsubsidized vessels" in the carriage of preference cargoes, and the subsidized vessels were expected to be able to carry those cargoes, eventually at least, at or near world rates. That was reasonable expected because the subsidies were supposed to equalize U.S. and foreign costs.

A major controversy arose during consideration of the 1970 Act centering on what was to happen to the ships which had been relying upon cargo preference cargoes when faced with directly subsidized competition. The so-called unsubsidized operators argued bitterly that they ought to be allowed to continue to carry preference cargoes and subsidized operators ought to be confined to the strictly commercial trades, but Congress disagreed. Preference cargoes would provide at least a guaranteed minimum amount of cargo and, together with the promise of parity through direct subsidies, would provide the incentive to build new ships. Moreover, as noted, since direct subsidies would be offered, indirect subsidies represented by premium rates, were to be phased-out.

As to existing ships, Congress decided that those with substantial undepreciated investment—either because they were relatively new or because they had recently been modernized—would be extended the opportunity to participate in the subsidy program provided they agreed to the same conditions imposed upon operators building new ships under subsidy contracts: principally eliminating their foreign-flag affiliations and agreeing to build replacement vessels, the sole method of insuring a continuing modernization of the U.S. fleet. All other then-existing U.S.-flag vessels were expected to phase themselves out.

However, the Maritime Administration placed restrictions on the operating-differential subsidy contracts of the new bulk subsidized operators prohibiting them from carrying cargo preference cargoes at least until they had satisfied the hearing requirements of section 605(c) of the Act which required a determination that the existing service provided by so-called unsubsidized vessels was "inadequate." That wasn't so bad. What was worse was that in those hearings, directly contrary to Congressional intent, the Maritime Administration presumed every single non-subsidized U.S.-flag vessel to be capable of providing "adequate service" even those over-aged and obsolete. So instead of leaving the residue of preference cargoes to those non-subsidized operators who did not agree to the conditions of the 1970 Act, the Maritime Administration left to the operators who built new bulk ships only what was left when the non-subsidized operators were finished. As if that weren't bad enough, the Maritime Administration has recently imposed rate limitations on the subsidized operators, while leaving the non-subsidized operators on a cost-plus profit basis, and allowing the non-subsidized operators to use round voyage costs while limiting subsidized operators to one-way costs.

What this means to the American taxpayer is that tens of millions of dollars are spent for the carriage of preference cargoes by obsolete U.S.-flag ships whose operators have no obligation to replace them, which could be saved by shipping via new subsidized U.S.-flag ships. Over the last two years alone the Maritime Administration has disapproved rates offered by our ships in four instances, allowing cargoes to be carried at rates ranging from \$14 to \$76 per ton higher than ours. The unnecessary cost on those four voyages alone was \$6.5 million. Our subsidy amounts to only about \$5/ton and is paid whether we carry preference cargoes or not.

Throughout all this Mr. Chairman, our efforts to carry preference cargoes have been opposed at every turn by the operators of the age-old crocks who are so inefficient that they could not hope to carry commercial cargoes on the world market, despite the fact that they have virtually no capital cost to recover. Yet it is we who are accused of unfair competition and of receiving so-called double subsidies. Of course the two subsidies which we would receive, if we carry preference cargo, namely the direct contractual subsidy and the slight premium rate to make-up the

fuel disadvantage, do not begin to add up to the single subsidy of the huge premium rates paid to the so-called non-subsidized operators.

There are several proposals now being circulated to admit foreign-built ships to the preference trades without a three-year sanitation period and to alter the procurement process regarding ocean transportation. I ask this subcommittee to keep in mind during any consideration of changes to the cargo preference program that great amounts of government monies can be saved, and new shipbuilding promoted by allowing the modern and efficient U.S.-built and manned subsidized fleet to carry preference cargoes.

(The following information was subsequently received for the record:)

KOMINERS, FORT, SCHLEFER & BOYER,
Washington, D.C., October 4, 1982.

Senator DANIEL K. INOUE,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR INOUE: During the oversight hearings on the administration of the cargo preference laws, Philip Shapiro, Esquire, Vice President and General Counsel of Apex Marine Corp. testified as to Apex's experience with the Maritime Administration in seeking to operate subsidized vessels under the cargo preference laws of the United States. In connection therewith you asked whether Apex believed that S. 1461, which you introduced in the first session of the 96th Congress, was necessary and whether Apex would support it. S. 1461 would have provided the Maritime Administration with general authority to determine which programs are subject to the cargo preference laws. Apex has asked me to respond on their behalf.

Apex believes that legislation such as that proposed by S. 1461 is necessary and would strongly support it. There is no doubt that agencies of the U.S. government which have no responsibility for promoting or preserving the merchant marine seek to avoid the application of the cargo preference laws to minimize shipping costs. Subjecting those agencies to oversight by the agency primarily responsible for overseeing the preservation and promotion of the merchant marine would therefore insure that those goals receive fair consideration. Having said that Apex wishes me to emphasize the central premise of its testimony on June 16, i.e., that, despite Congress' express and unequivocal intention to use the program to reduce cost to the government of shipping preference cargoes while promoting investment in modern tonnage, the Maritime Administration has not faithfully carried out Congress' intent.

Sincerely,

THOMAS L. MILLS, Attorney.

Senator GORTON. Mr. Shapiro, I think you make a very strong case. I take it, however, that the inequities which you assert could be cured by administrative action and would not require action by Congress. Is that not correct?

Mr. SHAPIRO. That is correct, sir.

Senator GORTON. And you have already at least won one of those battles in court, I take it.

Mr. SHAPIRO. That is correct too, sir.

Senator GORTON. But you do not yet see the fruits of that victory?

Mr. SHAPIRO. That also is correct, sir.

Senator GORTON. Mr. Drozak, I would simply like to ask one question which I believe will summarize your testimony. You state that you are disappointed with the administration's recently announced promotional programs. I take it that the bulk, if not all of that objection, is due to the fact that there is nothing in the way of additional cargo reservation or cargo preference in that proposal.

Mr. DROZAK. That is why.

Senator GORTON. Would that summarize your criticism?

Mr. DROZAK. That is part of it. The other part, if I may comment, is to allow foreign investment to be taken out of this country and

put into other countries to create employment for other countries while people will go hungry and on the bread lines in this country. I just do not think it makes sense at a time when unemployment is as high as it is.

Second, the foreign construction and repair is directed at liner operators. It is a replacement program under law that they have to replace these ships. For the replacement of these ships, there will probably be one-third less U.S.-flag ships in the Atlantic fleet once that replacement is over with, so in my opinion I do not see it doing anything for us as far as our industry is concerned. I certainly see it helping management. I am not against helping management. I think they deserve that wherever they can. But in my opinion it is not the answer to this problem of revitalizing this industry, and for that reason, Mr. Chairman, I have to oppose it. I certainly do.

Senator INOUE. Mr. Drozak, earlier this morning I asked Mr. Smith of Agriculture and Admiral Shear from MARAD questions relating to the New Zealand butter and the Jamaican bauxite transactions. In the case of the Jamaican bauxite, the Government's position was that there was only one port in Texas that could handle this cargo. Are you satisfied with that?

Mr. DROZAK. No, sir, and I so testified on the House side over there. Several ports could have handled this bauxite. There was only one port that had the type of facilities that were designed and the type of ship that was designed that met the specification that GSA submitted. That was the reason that the other companies were denied the right and also the other sites were denied the rights.

Senator INOUE [presiding]. You are suggesting that GSA tailored the bid?

Mr. DROZAK. Yes. As I say, the dressing was put on the turkey.

Senator INOUE. In the case of the butter, the Agriculture people contend that this was a simple commercial deal, it was not Government-generated cargo, notwithstanding the fact that you had no interest payments for the first 6 months. Would you agree with that?

Mr. DROZAK. No, sir, I do not, and I so testified on that on the House side. That was Government-generated cargo. It should have been carried on a U.S.-flag ship. It is another case where a Government agency, as they say, stepped over the law and permitted it to happen to us.

Senator INOUE. Do you agree with the Department of Energy that Alaskan oil should be included in the compilation of cargo preference statistics?

Mr. DROZAK. No, sir. It was not the intent of Congress when they passed that law. I don't believe it was. At least that was my impression of Congress, that this Alaskan oil would not be included in the SPR.

Senator INOUE. That was Jones Act, wasn't it?

Mr. DROZAK. Yes, sir.

Senator INOUE. So by law it has to be carried 100 percent.

Mr. DROZAK. Yes, that is correct.

Senator INOUE. Do you have any other instances where you feel that the Government in administering the law has not abided with the spirit or sometimes with the letter of the law?

Mr. DROZAK. Well, sir, I have some but not right off the top of my head. I would be more than happy to submit them to you. We do have many cases of that.

Senator INOUE. I would appreciate that.

Senator INOUE. Mr. Shapiro, I believe you have five ships, don't you?

Mr. SHAPIRO. We have seven ships, eight ships eligible for this trade.

Senator INOUE. Are all of your ships less than 25 years old?

Mr. SHAPIRO. Yes, sir. The oldest is 8 years old.

Senator INOUE. You have contended that you have been discriminated against. Can you give any reason as to why MarAd might have done that?

Mr. SHAPIRO. Let me respond in two parts to that. First, I have no reason that I can find. We have spent a substantial amount of money in legal fees attempting to find out, and we still have not discovered that. But since this is a matter in litigation, I would defer to Mr. Mills.

Mr. MILLS. I couldn't add anything to that, Senator Inouye. The Apex group is opposed by the operators of those vessels who carry the cargo since they don't, but the Maritime Administration has advanced several levels of purportedly legal reasons why it has taken the steps it has, but we are not satisfied.

Senator INOUE. Mr. Drozak, I am certain you know that over 50 countries have laws at the present time that call for cargo preference or other subsidies, or provide for other discrimination practices. Keeping that in mind, do you think that we should require that our mail should be carried on American vessels?

Mr. DROZAK. Yes, sir, I do.

Senator INOUE. At the present time it is out for bid, as you know.

Mr. DROZAK. That is correct.

Senator INOUE. Can you think of any other country that puts out their mail on bid like that?

Mr. DROZAK. No, sir, I know of no country that would do that.

Senator INOUE. When a Public Law 480 cargo is unloaded in some less-developed country where most of the stevedores are illiterate and they see a ship come in with a flag other than the United States, what country do you think gets the credit for that cargo as far as the stevedore is concerned?

Mr. DROZAK. The flag that is on that ship gets the credit for it. That is all they look at, and the nationality of where those people come from. That was one of our big selling points after World War II, Senator, on the redevelopment of Europe and also the Far East with the American seaman. He was a political machine for this country, to meet and talk with the local people. A government meets with a government, but people meet with people and talk about their conditions and things that happen in their country. I think it is the greatest selling point that a country can have, their American seamen and their flag on that ship going in and out of these undeveloped countries like it was back then.

Senator INOUE. So you contend that it is the business of capturing the minds and hearts of Third World people by permitting for-

eign aid supplies and Public Law 480 goods to be shipped on foreign bottoms is counter to that spirit?

Mr. DROZAK. Well, we are not getting credit for it, meaning the United States, let's say that. As far as in the peoples' mind, they think the Russians brought it or Liberia or the Panamanians or whoever is the makeup of that crew and the flag that is on that ship. They really have no idea that the United States has made this available for them.

Senator INOUE. I think it is well we remind ourself that soon after World War II, there was a terrible famine in India. At that time we shipped in I cannot remember how many shiploads of grain for India. The Russians agreed to set up little bakeries and they baked the bread, and guess who got the credit.

Mr. DROZAK. The Russians did. I remember that, sir. I remember, too, that the American operator was mistreated in those countries over there by delay of their ships by as much as 90 to 120 days for offloading. Other ships that were friendly to the Russians got priority of moving their ships in. That is a fact, too.

Senator INOUE. We have several other questions we would like to submit to you two gentlemen, if we may, for your consideration and response. Thank you very much.

Mr. DROZAK. Thank you, Senator. Thank you so much.

Senator INOUE. The committee stands in recess.

[Whereupon, at 12:55 p.m. the hearing was adjourned subject to the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

LAW OFFICES,
BOGLE & GATES,
Washington, D.C., June 4, 1982.

Hon. JOHN R. BLOCK,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: As counsel for Phoenix Bulkship I, Inc., owner of the U.S.-flag tanker *Golden Phoenix*, we are writing to you in regard to the recent bids to carry Public Law 480 cargo from the United States to Pakistan.

Under a tender of the Government of Pakistan dated May 20, 1982, to lift from 18,000 to 25,000 metric tons of soybean oil from the United States to Pakistan, the owner of the vessel *Golden Phoenix*, a new modern vessel, offered a freight rate of \$58.90 per metric ton. Another U.S.-flag vessel, the *Perryville*, which was built in 1943, offered a rate which was approximately \$13 per ton higher than the *Golden Phoenix*. The primary issue here is whether the U.S. Department of Agriculture (USDA) properly had the authority to approve the *Perryville*, and accept the *Perryville's* higher rate in order to calculate the ocean freight rate differential. A calculation based on the *Perryville* rate results in increased transportation costs of approximately \$325,000 which will be borne by the U.S. taxpayers.

Prior to the opening of bids on May 26, 1982, representatives of the *Golden Phoenix* and USDA officials had been in consultation with the Embassy of Pakistan concerning the fact that the *Golden Phoenix* exceeded the length restrictions set forth in the tender.

On May 12, 1982, TCP was advised by the Embassy as follows: "Bangladesh for its import of ten thousand (10,000) metons CDSBO under Public Law 480 allocations had to fix a very large US Flag vessel¹ despite restrictions on LOA as the USDA determined that their IFB did not specifically prohibit lightening of vessel if done at shipowner's expenses(.)"

"If Pakistan is offered a very large US Flag vessel, we may have to accept its fixture with lightening(.) Your comments in this regard may please be conveyed as soon as possible(.)"

On May 17, 1982 a further telex was sent to TCP which stated: "On the basis of the Bangladesh Public Law 480 experience a large US Flag vessel if competitive for shipment of CDSBO to Karachi in terms of the Cargo Preference Act will not be rejected only because it does not meet LOA requirements since the lighter vessel which will actually berth to discharge the CDSBO will conform with all Karachi port requirements(.) Lightening and arrangements to ensure weight and quality standards will be for the shipowners account and will be reflected in the freight rate and the differential payments paid by the US Government(.) Your comments in this regard may please be telex ASAP(.)"

On May 20, 1982 TCP responded to these telexes: "Plse appreciate we cannot accept edible oils vessels of LOA more than 600 feet and 32 feet draft because of many problems such as (a) Discharge of oil from large vessels cannot be managed at safe berths (b) Pumping of oil from such vessels directly into shore tanks not possible (c) Such vessels entail relatively more skin losses due to lighterage operation and consequent excessive short landing of oil (d), They use relatively more lay time in completion of discharge and have greater chance of undergoing demurrage(.) We would therefore request you to prevail upon USDA not to fix any vessel above 600 feet LOA and 32 feet draft(.) However if they force you to accept a large vessel shipowners concerned must be made to accept following conditions:

"(a) Suitable load/discharge berths at both ends shall be shipowners responsibility(.)"

¹The very large U.S.-flag vessel referred to herein is the *Jade Phoenix* a sister ship of the *Golden Phoenix*.

"(b) Lighter vessel to be arranged by shipowners at their own cost and shipowners to guarantee discharge of entire cargo into shore tanks at Karachi(.) TCP will not/not be responsible for arranging lighters(.)

"(c) Any loss of oil in quantity and quality as determined by independent surveyors nominated by buyers and shipowners after completion of discharge into shore tanks to be on shipowners account(.)

"(d) Shipowners guarantee to load entire cargo offered by TCP suppliers at US load port and Shipowners to be responsible for carrying charges in case full quantity offered by commodity suppliers is not loaded(.)

"(e) All time lost in lighterage to be on shipowners account(.)

"(f) Freight should be payable to shipowners after ascertainment of carrying charges against them in respect of load ports and quantity/Quality loss etc. if any at Karachi port(.)"

The owner of the *Golden Phoenix* consented to all of these conditions prior to the opening of bids on May 26.

It is our understanding that there was no written rescission of TCP's telex setting forth the conditions under which it would accept a larger vessel, but we have been told that there was a verbal rescission. However, as indicated in the summary of the telex of May 28, 1982 to TCP and TCP's response to that telex dated May 31, 1982 (See pages 2 and 3 of Attachment A) it would appear that TCP was under the impression that it would have to accept the *Golden Phoenix* and was being asked to set forth its position with respect to the next tender.

In addition to the question of whether the *Perryville* has been lawfully approved in view of the foregoing, there is also the question of how the ocean freight rate differential should be calculated. The Embassy of Pakistan indicated its desire to nominate the *Perryville* despite its age (built in 1943) and the fact that it may be scrapped and despite the fact that the ocean freight rate was approximately \$13 per ton greater than the *Golden Phoenix* or approximately \$325,000. The USDA advised the Embassy of Pakistan that if they nominated the *Perryville*, the ocean freight rate differential would be calculated using the *Golden Phoenix* rate of \$58.90 per ton. In nominating the *Perryville*, the Embassy of Pakistan requested the USDA to reconsider its method of calculating the ocean freight rate differential.

On Tuesday, June 1, 1982, the appropriate officials at the USDA, in consultation with the Office of General Counsel, determined to approve the *Perryville* and accept the *Perryville* rate in calculating the ocean freight rate differential. The reason for the approval appears to be based on the claim that the *Golden Phoenix* did not conform to the terms of the tender notwithstanding TCP's agreement to accept it if certain conditions were satisfied and the *Golden Phoenix's* subsequent satisfaction of these conditions.

The relevant provision of the Purchase Authorization concerning this matter states as follows: "The ocean freight differential will be computed by the Director, OTD, FAS, on the basis of the difference between (a) the weighted average freight rate(s) of non-U.S. flag vessels offered that in his opinion could carry the total quantity of the commodity purchases (mean or min/max as applicable) and (b) the lowest U.S. flag rates offered which in his opinion *could carry* the required U.S. flag tonnage regardless of U.S. flag vessels fixed." (Paragraph 12(a)(2)) (Emphasis added.)

It would be difficult to draft a rule which gives USDA greater discretion in protecting the public interest. Since the *Golden Phoenix* "could carry" this cargo, the foregoing language requires the Department of Agriculture to calculate the ocean freight differential based on the rate offered by the *Golden Phoenix* or \$58.90 a ton which will result in a savings to the U.S. taxpayers of approximately \$325,000 on this voyage.

We hereby request that the ocean freight differential be calculated on the basis of the rate offered by the *Golden Phoenix*. In the event our request is denied, please notify us as soon as possible with a statement of the grounds for denial in accordance with 5 U.S.C. § 555(e).

Very truly yours,

ROBERT J. BLACKWELL.

Pt. SHIPPING CORP.,
New York, N.Y., June 17, 1982

Hon. SLADE GORTON,
Chairman, Senate Merchant Marine Subcommittee, Room 235, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR GORTON: As the vice president of Point Shipping Corporation, operator of a fleet of six U.S.-flag tankers and/or dry bulk carriers, I welcome this opportunity to submit written testimony on the administration of the nation's cargo preference law. Point's vessels were built or rebuilt without construction-differential subsidy, have been financed without the benefit of Government-guaranteed Title XI financing, and are operated without operating-differential subsidy. Point does, however, compete against both subsidized and unsubsidized U.S. operators for preference cargoes, especially those under Public Law 480 program administered by the U.S. Department of Agriculture.

Based on Point's experience in competing for the carriage of Public Law 480 preference cargoes, Point believes that it has been harmed by the lack of regulations at the Department of Agriculture to require uniformity in the form, content and administration of the tenders for vessels and the resulting charters. In the Food and Agriculture Act of 1977, Public Law 95-113, Sec. 1207 (September 29, 1977), Congress required the Secretary of Agriculture to issue revised ocean transportation regulations by March 29, 1978, and every two years thereafter. The fourth anniversary of March 29, 1978 has come and gone, but there have been no regulations issued, let alone any two-year updates.

In the absence of regulations, foreign countries participating in the Public Law 480 program are permitted to solicit and charter U.S.-flag vessels for the carriage of these preference cargoes, and then the USDA's ocean transportation office in its Office of the General Sales Manager exercises a veto power of the awarded charter. Unlike procurements by U.S. government agencies, these charter solicitations by foreign governments are not governed by Federal procurement laws or regulations or the extensive case law on government procurement. Presumably, the USDA's ocean transportation officer reviews the awarded charters to determine: (1) whether the charter is responsive to the solicitation; (2) whether the charterer is "responsible" and (3) whether the charter is at a "fair and reasonable rate". However, this proceeds on a case-by-case basis, with no clearcut administrative procedure for protest or comment.

For example, Point was the clear low bidder in a tender which was on its face restricted to vessels under 850 feet in length overall. Despite this fact, USDA and the Maritime Administration tried very hard to get the recipient nation to take a vessel over 900 LOA because its rate was lower. The fact that it did not meet the tender restrictions as to vessel length was ignored. Fortunately for Point, after more than a week of the USDA and the Maritime Administration trying to get the longer vessel accepted by the grain elevator, the Point vessel was eventually taken. The fact that a material provision of the tender could be ignored at will, while at other times USDA disqualifies vessels as not meeting tender requirements, clearly supports a need for clear, specific and permanent regulations concerning tenders and charters.

As another example, in several instances Point has been the apparent low bidder and named to carry Public Law 480 cargoes only to have the charter vetoed or challenged by the USDA. In other cases, Point has had to manufacture administrative procedures in an attempt to challenge the unreasonable award of a charter which was either non-responsive to the solicitation or with an ineligible U.S. operator, or both. Such attempts to force equity and fairness on the system have been expensive and frustrating.

Further, the cargo preference law reserves cargoes for privately-owned, U.S.-flag vessels only "to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. . .", 46 U.S.C. 1241(b)(1). The Maritime Administration of the U.S. Department of Transportation has been directed by Congress to determine the fairness and reasonableness of rates for cargo preference purposes. See House Committee on Merchant Marine and Fisheries, Administration of Cargo Preference Act, H.R. Rep. No. 80, 84th Cong., 1st Sess. (February 23, 1955). Thus, when the USDA reviews a Public Law 480 rate to determine whether it is "fair and reasonable", the USDA relies on a determination by the Maritime Administration.

Such a determination of a guideline rate by the Maritime Administration is made in secret, apparently on a case-by-case basis, without any administrative procedure for protest or comment. Moreover, the owners whose rates are being set are not told either how the rate was arrived at or what went into the calculations. On occasion,

Point has been told that its charter rate for a P.L. 480 voyage has been determined to be not fair or reasonable. Its choice has been to acquiesce at a lower rate or to forego the charter. No procedure is provided to challenge the determination by the Maritime Administration, even though Point is certain that the rates as determined by the Maritime Administration are not correct. I am aware of no other government agency which is permitted to set rates off-the-record, in secret.

Point urges this subcommittee to bring some order and due process to the solicitation and chartering of U.S. vessels for the carriage of preference cargoes. The USDA should provide definite ground rules for the solicitation of U.S. vessels by foreign countries, and should provide adequate procedures to assure that these ground rules are followed.

Similarly, the Maritime Administration should be required to establish an on-the-record procedure for determining "fair and reasonable rates" so that such determination, like other administrative determinations, can be subjected to judicial review to be measured against reasonableness and substantial evidence.

I would be pleased to furnish any further information the Subcommittee requires in its efforts to examine these problems.

Yours very truly,

SAMUEL OBERFEST, *Vice President.*

AMERICAN PETROLEUM INSTITUTE,
Washington, D.C., June 24, 1982.

HON. SLADE GORTON,
*Chairman, Senate Subcommittee on Merchant Marine and Tourism, 5202 Dirksen
Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: The American Petroleum Institute (API) is pleased to provide this statement for the record on the issue of cargo preference. API is a petroleum industry organization representing 320 companies and 8,000 individual members. API member companies are involved as either importers or shippers in the vast majority of all petroleum carried in the U.S. foreign trade.

API is opposed to the application of cargo preference requirements to commercial cargoes. Over the past decade, there have been numerous attempts by shipbuilding, ship operating and maritime labor interests to impose various cargo preference regimes on commercial cargoes. Initially, these attempts focused on the petroleum import trade. The most recent attempt (H.R. 4627 The Port Development and Navigation Act of 1981) would require 40 percent of United States dry bulk imports and exports to be carried by U.S.-flag vessels. In all cases, the proponents of these cargo preference regimes, designed to increase the number of vessels in the U.S. merchant marine, have raised the "national security" argument to justify the tremendous cost impacts these proposals would have on the U.S. taxpayer and consumer.

API has strongly opposed the use of off-budget, market distorting mechanisms such as cargo preference requirements for commercial cargo or bilateral maritime agreements to rebuild the U.S. merchant marine. Any forced expansion of the U.S. merchant marine will be extremely costly due to large differentials in construction and operating costs between U.S. and foreign flag ships. Any dedication of scarce national resources to the expansion of the U.S. merchant marine is not a decision that should be made by maritime interests alone. The Administration and Congress must determine the national objective to be served by the U.S.-flag merchant marine, and quantify: (1) the number, type and size of ships needed to meet the national interest, while recognizing the capability of the U.S. effective controlled fleet, and (2) the cost of developing and maintaining this additional capability. The necessary funds should then be provided "on-budget" rather than buying them in hidden costs to the consumer.

The magnitude of these additional costs can be illustrated by examining the attached table which compares U.S.-flag fixtures, believed to be for shipments into the Strategic Petroleum Reserve, with similar foreign flag movements in the same time frame. On average, U.S.-flag shipping costs were 3½ times greater than foreign flag. This additional cost of approximately \$1.80 per barrel, when applied to current U.S. petroleum imports of 4.6 million barrels per day (average for the first four months of 1982) would place a burden of approximately \$3 billion per year on the U.S. consumer. If commercial cargo preference requirements were applied to only forty percent of our petroleum imports, the additional costs would be on the order of \$1.2 billion.

We note that testimony given before your subcommittee on June 16, 1982 was limited to discussions of government cargoes and the attempt by S. 2511 to reduce their

shipping costs. API traditionally has not taken a position on either flag reservation requirements for government impelled cargoes or the implementing method. However, we believe the intent of the sponsors of S. 2511, to reduce government costs, is commendable.

Should you or your staff wish to discuss this issue in greater detail, please contact Mr. Thomas Barksdale (202) 457-7288 of my staff.

Sincerely,

CHARLES J. DiBONA, *President.*

COST COMPARISON OF U.S. AND FOREIGN FLAG TANKER FIXTURES IN SIMILAR TRADES ¹ JANUARY 1981-MARCH 1982

Date	Charterer	From	To	Tons	Vessel name	Flag	Rate	Dollars per long ton	
								U.S.	Foreign
Mar. 11, 1981 ..	MSC	Greece	USG	91,849	Beaver State	Am.	AR125	26.46	
Mar. 5, 1981		Mediterranean	USAC	90,000	Fidelio	Gr.	W65		7.27
Mar. 27, 1981 ..	MSC	Caribbean	USAC	29,600	Colorado	Am.	AR139	9.69	
Mar. 26, 1981 ..		do.....	USNH	29,000	Bejaia	Al.	W115		5.31
July 1, 1981	MSC	do.....	USSH	21,300	Colorado	Am.	AR190	11.32	
June 30, 1981 ..		do.....	USAC	30,000	Cedar	Al.	W120		7.12
Sept. 4, 1981 ...	MSC	Pajaritos	USG	36,000	Mormacstar	Am.	AR172.5	6.16	
Sept. 8, 1981 ...		ECM	USG	30,000	Phillips Oklahoma ...	Li.	W143.5		3.96
Sept. 25, 1981.	MSC	Bahamas	USG	39,000	Chelsea	Am.	AR155	7.32	
Sept. 25, 1981.		Caribbean	USG	36,000	Sprague Capella	Li.	W100		5.48
Nov. 16, 1981 ..	MSC	Bahamas	USG	58,727	Point Vail	Am.	AR134	6.32	
Nov. 13, 1981 ..		Caribbean	USG	56,000	Venturer	Gr.	W67		3.67
Dec. 4, 1981	MSC	ECM	USG	63,000	Golden Endeavour ...	Am.	AR157	5.35	
Dec. 3, 1981		do.....	USAC or USG	37,000	Fantasy L	Gr.	W100		2.58
Feb. 9, 1982	MSC	AG	Loop	250,000	Massachusetts	Am.	AR76	29.63	
Feb. 4, 1982		do.....	West	260,000	World Canada	Li.	W17 3/4		5.33
Mar. 22, 1982 ..	MSC	Bahamas	USG	26,000	American Hawk	Am.	AR134	6.65	
Mar. 22, 1982 ..		do.....	USAC, USG	38,000	World Freeport	Li.	W95		3.23
Average dollar long ton.								19.11	5.19

¹ Based upon U.S. flag fixtures believed to be into the SPR vs. similar Foreign flag movements in the same time frame. Sources: Maritime Data Network Ltd., Dietze Inc. weekly market reports.

ASA WASHINGTON OFFICE,
Washington, D.C., June 25, 1982.

Senator SLADE GORTON,

Chairman, Subcommittee on Merchant Marine and Tourism, Senate Committee on Commerce, Science, and Transportation, 5202 Dirksen Office Building, Washington, D.C.

DEAR CHAIRMAN GORTON: U.S. soybean farmers have a strong interest in current cargo preference requirements affecting shipments of American food and fiber to our overseas markets. Although I was unable to appear at your hearings concerning cargo preference on June 16, 1982, I ask that the following comments of the American Soybean Association be included in the public record compiled pursuant to your hearing.

The American Soybean Association is a national, volunteer, nonprofit, producer-controlled, single commodity association organized to assure the opportunity for a profitable soybean industry. ASA has approximately 20,000 dues-paying members and is supported by over 500,000 soybean producers who voluntarily invest in ASA programs through 23 separate statewide soybean checkoff programs. ASA seeks to maintain soybean profitability through its foreign market development, research, producer and public information and government relations programs.

U.S. soybean farmers consider cargo preference a farm issue because its application under Public Law 480 and AID programs jeopardizes our foreign markets. Over 50 percent of America's soybean crop is exported. In 1981, soybean, soy meal and soy oil exports earned \$8.24 billion for U.S. farmers and processors, generating valu-

able foreign exchange. Soy complex exports have long enjoyed being the nation's second largest cash export item, even when compared to other non-agricultural exports. Given the growing world need for economical sources of protein due to projected population growth, the prospects for expanded soy consumption abroad are exciting.

Trade impediments threaten to restrict this tremendous growth. Not only did the agricultural embargoes in 1973 and 1980 stimulate foreign soybean production in Brazil, Argentina and other southern hemisphere nations, but much of this production is now sold worldwide with the benefit of export subsidies. U.S. soy exports must compete with these foreign-produced soybeans and soy products at a cost-at-destination basis. So far, the quality of our soy production, competitive U.S. pricing, our technical export servicing and limited government financing assistance have helped U.S. farmers barely hold their own against subsidized foreign soybean production and exports. However, the future is uncertain.

Cargo preference is also an onerous, growing trade deterrent for U.S. soybean exports. Our foreign customers privately tell us that the small, inefficient, old U.S. merchant vessels available for Public Law 480 shipments frequently break down and often do not arrive at their destination at the scheduled time. While this means even greater cost to the federal government, which pays the preference premiums under Public Law 480, the soy exporter cannot guarantee delivery at a specified time.

Reliable and predictable delivery is essential to servicing U.S. grain markets abroad, particularly during these troubled economic times. Foreign customers generally operate with minimal grain inventories to avoid tying up available cash or leveraging themselves, particularly with today's high interest rate. If expected soybean shipments do not arrive as scheduled, foreign processors must scramble to fill the supply void or close down plant operations. If this problem is not remedied soon, these foreign customers will turn to other more reliable sources of supply—our soybean producing competitors.

That will mean that income for U.S. farmers, a loss of foreign exchange, and a drop in the potential tonnage available to the U.S. merchant fleet.

The negative trade impact of cargo preference requirements under AID programs is also considerable. Agricultural products purchased with financial assistance from AID, also subject to a 50 percent cargo preference statute, paid by the recipient country, are simply more expensive for our foreign customers than non-U.S. produced soybeans. While this has traditionally been the case, the problem is becoming increasingly severe. Increases in U.S. bulk vessel shipment cost per ton have far outpaced commodity price increases in real terms. This widening gap between shipping cost and shipment value renders soybeans exported under the auspices of AID programs uncompetitive in the world market. Cargo preference supporters may argue that a modernized, efficient U.S. maritime fleet, with lower operation costs than the older vessels currently in use, would help narrow the commodity value-shipping cost gap and reduce the program's negative trade impact. This may occur, but foreign customers do not wish to subject their long-range purchasing plans and future contract deliveries to such unfounded optimism.

ASA was privately told by a major foreign customer, who purchases U.S. soybeans via AID agricultural loans, that it is considering withdrawal from the U.S. soybean market and instead shifting to other soybean sources because of the exorbitant premium charged by U.S. merchant vessels over foreign-flag carriers. That country is seriously considering foregoing AID assistance rather than endure the attached cargo preference requirements. The well-known Egyptian cancellation of 70,000 metric tons of U.S. grain because of \$60-\$82 cargo preference premiums is another example of the dangers of this U.S. maritime subsidy. How many more lost sales is the U.S. willing and able to endure during our critical farm depression in order to continue a subsidy whose cost-benefits are dubious at best?

Consider some key facts. Supporters of cargo preference say that U.S. taxpayers should contribute to the national interest by government subsidy to ensure a strong U.S. Merchant Maritime fleet for national defense, national security and strategic readiness purposes. However, cargo preference has not even achieved its objective of a U.S. commercial fleet capable of defense readiness. Since U.S. vessels break down and do not arrive on time when carrying Public Law 480 shipments, does Congress wish the same fate for defense cargoes during an emergency? USDA's Foreign Agricultural Service reports that last year not enough U.S. flag vessels were even available to satisfy the 50 percent cargo preference requirement under Public Law 480. The cargo preference subsidy has not led to a renaissance in the U.S. Merchant Marine capable of military preparedness. Instead, U.S. taxpayers are subsidizing operation of outdated vessels operated by U.S. companies unable or unwilling to even

take advantage of their assured market under Public Law 480. ASA believes that current Public Law 480 and AID cargo preference requirements should be at best, eliminated. Put simply, if cargo preference is working, where are all of the new ships?

If not eliminated, the cost of cargo preference should at least be transformed into a budget line item. It currently is hidden in USDA's budget. This clever arrangement contributes to bureaucratic unaccountability and lack of full Congressional awareness or oversight of the actual costs of cargo preference when stacked up against other priority programs. If current cargo preference requirements continue, then funding should be assigned to the Department of Defense or DOT's Maritime Administration, or both, so the agency representing beneficiaries of the program pays for it. Congress created USDA to represent the needs of agriculture, nutrition and key natural resources, certainly not those of national defense or the U.S. maritime industry.

It is my understanding that the Administration is taking a close look at current maritime subsidies as part of its overall maritime reform policy. Despite Transportation Secretary Lewis's affirmation of the sanctity of existing cargo preference requirements, ASA emphatically urges Congress and the Administration to support elimination of the unsuccessful program.

Thank you for the opportunity to comment on the impact of current cargo preference requirements on the U.S. soybean industry. If I or my staff can ever be of assistance, please do not hesitate to contact me.

Sincerely,

CHARLES E. HAMON, *President.*

Attachment.

PER BUSHEL IMPACT OF CURRENT CARGO PREFERENCE REQUIREMENT UNDER PUBLIC LAW 480

Commodity type, shipment dates	U.S. flag vessel	Foreign flag vessel	Freight rate difference per ton	Percent increase in freight costs on U.S. vessels	Additional cost per bushel
Bulk wheat:					
Columbia River or to Karachi, Pakistan, February 1-10, 1982.	\$86/mt; "President Jackson" (15,000 mt shipment).	\$35/mt; "Arathon" (15,000 shipment).	\$51.00	+146	\$1.39
U.S. North Pacific to Alexandria, Egypt, March 1-10, 1982.	\$108.02/mt; "Little Apex" (20,000 mt shipment).	\$30.01/mt; "Common Venture" (25,000 mt shipment).	78.01	+260	2.13
Soybean oil:					
U.S. Gulf to Chittagong and/or Chalna June 21-July 9, 1982.	\$160/mt; "Button Gwinnett" (9,005,000 mt shipment).	\$77/mt; "Banglar Kakoli" (9,005,000 mt shipment).	83.00	+108	4.15
Bulk corn:					
Philadelphia to Alexandria or Port Said.	\$79.50/mt; "Pride of Texas".	\$31/mt; "Anastasia"	48.50	+156	2.43
U.S. flag: May 10-20, 1982—Foreign flag: May 7-31, 1982.	(31,550 mt shipment)	(25,000 mt shipment)	(¹)	(¹)	(¹)

¹ Vessel Freight Rate Source: "Journal of Commerce" January 1-June 25, 1982.

MIRAID,
Washington, D.C., June 25, 1982.

Hon. SLADE GORTON,
Chairman, Subcommittee on Merchant Marine, 126 Russell Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I regret my schedule did not permit me to testify during your oversight hearing on June 16. Therefore I greatly appreciate this opportunity to submit for the record the views of the Maritime Institute for Research and Industrial Development on the Cargo Preference Act of 1954 (P.L. 83-664). The Maritime Institute is a non-profit association whose approximately 100 member companies operate United States-flag vessels in all aspects of our nation's foreign and domestic trades.

The Subcommittee has already received a great deal of testimony from several member companies of the Maritime Institute reciting the importance of cargo preference programs to the U.S. merchant marine and detailing many of the problems involving the lack of proper compliance by certain government agencies. Nevertheless, we believe certain points merit additional emphasis.

As stated also by Maritime Administrator Admiral Harold Shear, the economic importance of the requirements of the cargo preference statute to the U.S. merchant fleet cannot be exaggerated. According to the Maritime Administration, the seven U.S.-flag subsidized liner operators on the average derive 16 percent of their total revenues from the carriage of preference cargoes. As one of our members, Delta Steamship has pointed out, on some of its trade routes the cargo preference program is a decisive factor in the continuance of a U.S.-flag service. It becomes readily apparent when reviewing the statistics provided by the Maritime Administration and the operators that cargo preference is essential to the maintenance of the U.S. merchant marine.

Notwithstanding the encouraging policy statements from the current as well as previous administrations reaffirming support for the Cargo Preference Act of 1954, certain government agencies have a record of continually maneuvering to circumvent the requirements of the law. Recent examples include the General Services Administration's handling of its bauxite purchases from Jamaica and the Department of Agriculture's sale of surplus butter to New Zealand.

In addition the Department of Energy is now refusing to accept the Maritime Administration's position that the domestic carriage of Alaskan oil should not be included in DOE's computations to determine whether 50 percent of the oil purchased for the Strategic Petroleum Reserve is being carried on American vessels. In a legal opinion dated August 28, 1981, Marad's Chief Counsel stated that "Based on the language of section 901(b), section 27 and applicable legislative and administrative history, it is concluded that domestic oceanborne shipments under section 27 are not within the scope of section 901(b) and thus may not be used in calculating U.S.-flag share participation under section 901(b) for the SPR program." If Jones Act shipments are excluded, the U.S.-flag share of participation in the SPR trade drops, according to Department of Energy figures, to 26.5 percent, far below the mandated 50 percent.

As the above examples illustrate, despite the Maritime Administration's efforts, it has been unable to obtain full compliance with the Cargo Preference Act by other government agencies. It is our conclusion that proper compliance can not be guaranteed unless there are modifications to the cargo preference law itself.

Earlier this year, in a letter to Admiral Shear, the Maritime Institute proposed some steps that could be taken to clarify and update the Cargo Preference Act. First, we recommended that section 901(b) of the Merchant Marine Act be amended so as specifically to include under its terms "any form of grant, loan advance, credit, cash transfer or guarantee whatsoever." This language should minimize the almost constant disputes over the applicability of the Cargo Preference Act and the types of programs covered. In fact, the Committee on Merchant Marine and Fisheries included such an amendment for precisely these reasons as part of the so-called maritime omnibus legislation it reported in May, 1980.

In conjunction with this proposal, we believe it is absolutely necessary to clarify the extent of the Maritime Administration's authority to determine the applicability of cargo preference legislation to specific programs. Section 901(b) should be amended to state that "the Secretary of Transportation shall have the sole responsibility for determining and designating those programs which are subject to the requirements of this subsection." Senator Inouye introduced such legislation during the 96th Congress.

We also believe provision should be made to allow an aggrieved party to file suit in the United States Court of Claims for damages associated with the loss of cargo due to a government agency's failure to apply and implement the Cargo Preference Act properly. Presently, if an agency ignores the requirements of Public Law 664 and American carriers receive less than their rightful share of the government generated cargo, the carriers have no recourse if the agency's decision is subsequently overruled or otherwise found incorrect.

It is also important to reemphasize the importance of differentiating between the various programs covered by the Cargo Preference Act when discussing the issue of shipping costs. Presently, the payment of a "cost differential" by the United States government to cover the difference between an American rate and a foreign rate pertains only to the so-called Title I shipments of the Department of Agriculture. As provided in the statute, the rates submitted by American carriers must be "fair and

reasonable" and the Department of Agriculture has the authority to accept or reject the rates.

In contrast, the Title II Food-for-Peace/Public Law 480 shipments of the Department of Agriculture do not involve the payment of a shipping cost differential by the United States government. According to information from various of our member companies, in today's market the foreign and American shipping rates for cargo under this program are virtually the same and there have even been recent examples when the United States-flag rate has been lower than that submitted by a foreign carrier.

Despite these facts, there have been repeated attempts on the part of some in Congress to end the applicability of the Cargo Preference Act to Title II shipments. We of course have opposed such proposals and again wish to express our appreciation for your strong support for Public Law 664 and your leadership in successfully repelling these attempts to weaken the cargo preference program.

Instead, the Department of Agriculture should be required to put forth the regulations and procedures it has developed regarding the shipment of cargo under Title II and its compliance with the Cargo Preference Act of 1954. It is our information that the lack of uniform procedures has led to arbitrary and inconsistent decisions regarding United States-flag rate levels by the Department of Agriculture. The decision whether to ship American should always be made with an eye towards complete compliance with the requirements of the Cargo Preference Act of 1954. The Congressional intent that Public Law 664 contribute to the maintenance of a United States merchant marine can not be achieved without the commitment and cooperation of all involved public and private parties.

As you know, on May 20, 1982, Secretary of Transportation Drew Lewis announced that the "Administration reaffirms the sanctity of . . . existing cargo preference laws covering U.S.-flag carriage of Government-impelled cargoes." We believe the above recommendations will help achieve a more proper implementation of the Cargo Preference Act of 1954 and are consistent with President Reagan's maritime policy. We look forward to working with you and your staff to achieve the maritime program and merchant marine which are so important to our nation.

Sincerely yours,

JULIAN H. SINGMAN, *President.*

TRANSPORTATION ASSOCIATION OF AMERICA,
Washington, D.C.; June 25, 1982.

HON. SLADE GORTON,
Chairman, Senate Merchant Marine Subcommittee, Commerce, Science, and Transportation Committee, Washington, D.C.

DEAR CHAIRMAN GORTON: The Transportation Association of America is pleased to note your Subcommittee's oversight hearings on the cargo preference concept in the maritime field. TAA has recently reviewed its policies on cargo preference and would like to express its current views to your Subcommittee's members. In brief, TAA supports continuation of cargo preference for U.S. Government-generated cargo, but opposes its adoption for dry bulk or liquid bulk cargoes in the commercial export and import trades.

For the record, TAA is a national policy organization composed of shippers, investors, and carriers of all modes who work together to develop and implement policies designed to ensure the strongest possible U.S. transportation system under private-enterprise principles.

Cargo Preference for U.S. Government—Generated Cargoes

TAA has been a long and continuous supporter of the cargo preference concept for application to U.S. Government-generated ocean cargoes. We fully recognize the difficulties faced by the U.S. maritime industry in competing in the foreign trades with carriers utilizing lower-cost labor and ships, and thus have long supported compensating U.S. assistance such as cargo preference in its limited application. The purpose, in our view, of such aids is that of maintaining a nucleus fleet of ships and shipbuilding capacity for our national defense and for carriage of a substantial proportion of U.S. foreign commerce.

It is important to note, however, that TAA's policy stresses that the cost of any such support for the U.S. merchant fleet or our shipbuilding industry should be borne by the nation's taxpayers as a whole, rather than by U.S. exporters or importers. In general, cargo preference has been very beneficial to our maritime industry. To illustrate, the Maritime Administration has reported to your Subcommittee that an average of 16 percent of U.S. liner companies' total revenues in 1980 were de-

rived from U.S. Government cargo-preference cargoes. MarAd also noted that the U.S.-flag dry bulk carriers are most dependent on such cargoes and would most likely go out of business if they were taken away.

As members of your Subcommittee will recall, last year an effort was made in the Budget Reconciliation Bill to remove U.S. Government-generated farm products from the Cargo Preference Act. Just prior to a Senate vote on this proposal by the Senate Agriculture Committee, TAA wrote to every Senator to express its opposition. We stated that the 50 percent minimum requirement in the Act appears reasonable, especially when it is recognized that most foreign countries require that 100 percent of their government cargo move on their own flag ships. We also pointed out that even this limited reduction in the scope of the Cargo Preference Act could cost U.S. carriers at least \$300 million in revenues per year—forcing many of them out of business. Fortunately, this provision was deleted from the Bill and thus not passed into law.

TAA's major concern with the present Cargo Preference Act is the reported lack of compliance by different Government agencies—possibly by misunderstanding or by the lack of strict enforcement. Accordingly, our Association recently adopted the following policy, which calls for clarification as to the specific types of "Government-impelled cargoes" that should be covered by this Act: "The present ocean cargo reservation law regarding Government-impelled cargoes should be expanded where practicable to include cargo movements resulting from: Procurements for account of the U.S. Government. Procurements for foreign governments by the U.S. Government without provision for reimbursement. Provision by the U.S. Government of any grant, advance or credit to any party in a transaction involving the furnishing of any equipment, materials or commodities in international commerce."

Cargo Preference for Commercial Ocean Cargoes

As noted above, TAA policymakers have made it clear that any support that the Association gives to cargo preference in the maritime field should not weaken the ability of U.S. exporters and importers to compete in the world marketplace. Accordingly, TAA opposes any moves—such as currently being made by the House Merchant Marine and Fisheries Committee—that would require that a stated percentage (40 percent) of dry bulk cargoes in the U.S. foreign trades be carried in U.S.-flag ships within a specified period (10 years).

While many reasons for opposing such an expansion of the cargo preference concept have been given to your Subcommittee in hearings just recently completed, several that appear particularly applicable include the following:

U.S. exporters and importers would be forced to pay much higher rates for transporting their products in high-cost U.S. ships—an inflationary move that would add hundreds of millions of dollars annually to their and U.S. consumer costs.

Since the present U.S.-flag dry cargo fleet is small and incapable of handling any such volume of traffic, many new ships would have to be built—presumably in high-cost U.S. shipyards over an extended period of time. The statutory monopoly will thus force up rates of U.S. carriers—and also allow higher rates of competing foreign carriers, whose rates are now far below those of U.S. ships.

From a world market standpoint, there is a sizeable surplus of dry bulk ships, with about 17 percent of the world's ship tonnages not being utilized as of the end of 1981. Why build costly new dry bulk carriers when such a condition is expected to remain for a long time because of the volume of such ships now on order?

There are over 200 dry bulk carriers in the so-called flags-of-convenience fleet. While they are manned by lower-cost foreign crews, the ships are owned, managed, and controlled by U.S. corporations and able to carry a large share of the U.S. import and export foreign trade at far less cost than if done with U.S.-flag ships.

For these and many other reasons, TAA urges that your Subcommittee reject any moves to expand the cargo preference concept in the maritime field to liquid or dry bulk commercial cargoes. At the same time, we urge that it reaffirm support of the concept for U.S. Government-generated ocean cargoes and give support to reasonable changes in the statutes that clarify the specific types of U.S. Government transactions and programs that should be covered by cargo preference.

We request that this letter be included in the hearings of your Subcommittee's oversight hearings on the Cargo Preference Act.

Respectfully,

ROBERT HENRI BINDER, *President.*

AMERICAN MARITIME ASSOCIATION,
Washington, D.C., June 29, 1982

HON. SLADE GORTON,
*Chairman, Subcommittee on Merchant Marine, Committee on Commerce, Science,
and Transportation, 5202 Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR GORTON: I do not know whether the Maritime Administration has commented on the June 16 testimony of the Apex Marine Corporation, spokesman for the Berger Group of tankers, but their statement should not pass into the record without necessary correction. The place of subsidized tonnage in the preference trades is a long-standing problem on which Congress has spoken in a sense materially different from the contentions of the witness.

The witness did not report that his clients originally accepted, pending further study, the two-ship limitation on entry by their fleet into the preference trades with full subsidy. They expressed understanding of the need to phase in such a profound change. They rejected, however, the agency's requirement that since their ships were to operate with full subsidy, they must charge world freight rates, as laid down by Congress in extending subsidy to bulk ships in the 1970 amendments to the Merchant Marine Act of 1936.

Congress has reinforced the principle by enacting section 614 of the Act, which provides an alternative for subsidized companies that may wish to charge full American rates for carrying preference cargo: they may suspend operating subsidy altogether for a period not less than one year, and repay construction subsidy proportionally. The Berger Group has adopted this expedient for at least one ship. Reflection will show by it, Congress has declared against paying double subsidies.

The legal propriety of the Maritime Administration's requirement that subsidized ships charge world rates was sustained by the District Court from which the Berger Group sought redress, and they have appealed that decision, which is now pending oral argument in the Court of Appeals for the District of Columbia Circuit.

The Subcommittee has in the past declined to consider issues in this very field that were at the time in litigation, but it ought to be informed that the account the witness gave of the matters in controversy is subject to extensive correction. For instance, his clients do not actually have any interest in the operation of the ships in question, having chartered them for life to major oil companies that bear all costs "hell or high water"; some of these charterers are not citizens, and it is in their name and for their account that bids to carry preference cargo have been submitted. Complaints concerning rate limitations in no way concern the witness, therefore.

The suggestion is likewise incorrect that modern tonnage is being kept out of the trade for the benefit of "age-old crocks". There is a growing surplus of the most modern coastwise tanker tonnage, whose only fall-back business has historically been the preference trade. The supply of these ships is being augmented by a whole new fleet costing about \$2 billion still under construction in American shipyards without subsidy.

I request that this letter be incorporated in the record of the Committee's proceedings.

Sincerely,

ALFRED MASKIN, *Executive Director.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., July 26, 1982.

HON. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, United States Senate.

DEAR MR. CHAIRMAN: We refer to your letter dated May 21, 1982, requesting our comments concerning bill S. 2511, to amend the Merchant Marine Act of 1936 to provide that Government-generated cargoes transported on United States-flag or foreign vessels shall be shipped at the lowest landed cost.

We provide the following for your consideration. First, in managing cargoes, there are other considerations which may take precedence over cost. For example, Leon W. Morse, in "Practical Handbook of Industrial Traffic Management," page 2 (6th ed. Traffic Service Corporation 1980) states:

"An important specific objective of every purchaser of transportation is to satisfy service requirements at the lowest possible cost. That is to say, no traffic manager worth the title would arrange to ship a vital and needed electronic part by a comparatively slow water service, merely because of low rates; nor would he get 'caught short' and order several hundreds of tons of industrial sand shipped by a premium

transportation service. The added cost of crating and packing shipments for low-cost transportation might be greater than the added cost of shipping the same products with little or no crating via premium transportation. Similarly, there are conditions where part of a shipment might be sent via premium transportation in order to keep a production line going, while the rest might be sent by slower and cheaper methods and still arrive in time. Then there is the potential of high-speed, premium transportation for reducing overall costs by lessening warehouse and inventory requirements and thus freeing capital that might otherwise have been tied up in both warehouse space and large inventories."

Thus, in many cases, service may be more important than cost, and "lowest landed" transportation cost may not be the best measure of overall cost to the Government. The requirement to ship at the "lowest landed" cost may, in fact, inhibit a traffic manager's ability to choose service which will result in the lowest overall cost to the Government.

We also point out that recently the Maritime Administration was transferred from the Department of Commerce (Commerce) to the Department of Transportation (Transportation). Therefore, Transportation should be inserted where Commerce is referred to in the bill.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

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